

WHEN THE GLOVES COME OFF • Jonathan Schell

THE Nation.

IRAQ'S
COLLATERAL
DAMAGE

Chris Toensing

CAPITALISM'S
NERVOUS
BREAKDOWN

William Greider

THE

COURT

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WHAT'S AT STAKE

HERMAN SCHWARTZ
SARA ROSENBAUM • HARPER JEAN
TOBIN • DAVID C. VLADECK • ROBERT
M. LAWLESS • ERIC SCHNAPPER

Exchange

POW/MIAs & John McCain

MONTCLAIR, N.J.

Like other progressive historians, veterans and antiwar activists, I was profoundly shocked by *The Nation's* publication of Sydney Schanberg's recycled and thoroughly discredited right-wing fantasy about Vietnam holding US POWs after the war ["McCain and the POW Cover-up," Oct. 6]. Although many urged me to respond, I have been reluctant to do so.

First, I hesitated to compound the damage *The Nation* has done to itself and its credibility. Where were your fact checkers? Where were your responsible consultants who knew the history of this mythology and Schanberg's disgraceful role in promulgating it for decades?

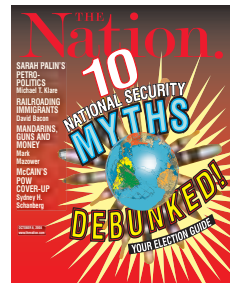
Second, I did not see how to avoid the appearance of self-promotion. *M.I.A., Or, Mythmaking in America* (my book, first published in 1991) exposed the true history of this fraudulent issue and systematically disproved every one of Schanberg's "facts" and arguments about POWs allegedly held by Vietnam after the war. It is not up to me to respond to Schanberg; it is up to him to respond to the meticulously documented facts and analysis in the book and in articles I published in *The Nation*, *The Atlantic*, *The Progressive* and elsewhere.

Some may recall that Schanberg and I were scheduled to debate at NYU on October 20, 1992, when the issue was flaming because the POW/MIA myth was being used as the main weapon to prevent normalization of relations with Vietnam. Hundreds waited expectantly in the auditorium. Schanberg chose not to appear.

What forced me to write is one transcendent fact: the POW/MIA myth is still an essential component of the culture that supports our current, and likely future, wars. If we resurrect the true history of our genocidal war against Vietnam, we would no longer see America as the victim of Vietnam and all the countries we have bombed and invaded since. And the Vietnam POW, personified in John McCain, might then be seen not as the main victim of that war and hence America's iconic war hero.

H. BRUCE FRANKLIN

letters@thenation.com



DOBBS FERRY, N.Y.

It was extremely disturbing to see *The Nation* provide space to Sydney Schanberg alleging that John McCain was part of a conspiracy to suppress information about POWs left behind in Vietnam. That would mean that John Kerry and Bill Clinton were also part of the conspiracy, not to mention the Pentagon and the State Department.

Having made more than fifty trips to Vietnam, beginning in 1975, I think the only reality of this story is as evidence of how hard it is for the United States to lose a war. I feel no less a desire than *The Nation* to ensure that McCain is not our next president, but such an article is Swiftboat revisionism with the endorsement of the country's leading progressive publication.

JOHN MCAULIFF

Executive director

Fund for Reconciliation and Development

DEALE, MD.

Kudos to Sydney Schanberg for bringing back to public awareness John McCain's role in consistently blocking Congressional efforts to learn more about the fate of POWs in Vietnam never accounted for—left behind?—unlike McCain and his 590 fellows, who were released in 1973. It seems inexplicable behavior on the part of a man who puts such stock in honor and who promised, in his first presidential debate, to take care of veterans.

CHRISTOPHER MAY

BOSTON

I was horrified to see Sydney Schanberg's "McCain and the POW Cover-up," which ignores scholars who demonstrate that the POW mythology has no basis in the evidence, that it was concocted by the Nixon administration to justify its stonewalling during the Paris peace negotiations, that it is the heart and soul of the fantasy that the Vietnamese were a perfidious enemy and Americans were their innocent victims—which survived for years as a

(continued on page 24)

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THERE AT EVERY TURN.



Left and Right

In 1971, after announcing wage and price caps to curb inflation, Richard Nixon famously declared, "We are all Keynesians now." But moments after the phrase escaped his lips, it was

no longer true. Indeed, the thirty-seven years since then have seen a nearly full-scale repudiation of Keynes at home and abroad, as neoliberalism remade our political economy and ushered in the new Gilded Age.

In the past few weeks, however, it has seemed quite clear that this chapter is over or at least on its last few pages. But as Nixon showed, old ideological habits die hard. Which is why, when faced with the prospect of imminent financial collapse, the Treasury initially designed a bizarre, jerry-rigged, quasi-free-market solution that would have involved setting up a government-run reverse auction to buy troubled assets. From the beginning, people on the left pointed to a far more efficient, fair and tested approach: direct injection of capital into banks. Or, to use a word that still retains a *frisson* of the taboo, nationalization.

Of course, anyone calling for a major part of the economy to be nationalized just six months ago would have been swiftly relegated to the margins of American political discourse. And yet here we are in 2008, with old Wall Street hand Hank Paulson, of all people, suddenly seeming to embrace the idea. On Monday, October 13, he called a meeting with the heads of the nation's nine largest banks and announced that the government would be purchasing \$250 billion in their preferred stock. The devil, of course, is in the details (see William Greider, "Dr. Paulson's Magic Potion," page 4), and if the banks' alacrity in accepting the deal is any indication, taxpayers ought not to let down their guard anytime soon. Still, this departure from neoliberal orthodoxy was a shift worth savoring.

It's not just Paulson and others in the Bush administration who have been forced to throw their philosophical prin-

ciples on the pyre. Who'd have thought that the Republican presidential candidate would be pushing a plan to buy up bad mortgages (as poorly designed and thought out as that plan is), or that the congenitally cautious Obama campaign would put out a call for a three-month foreclosure moratorium?

It's been remarkable to watch the way the right's ideological bankruptcy, with its painful real-world consequences, has pushed the center firmly in a progressive direction. Put another way, it's becoming clearer by the day that the left was right.

All of this raises the question: if nationalizing banks is suddenly on the table, what else might be placed there? Inspired by the sense of new possibilities, The Nation convened an emergency town hall at New York City's Brecht Forum on October 10, drawing together some of the left's most insightful and prescient thinkers and writers. In classic organizer fashion, we asked, What are our demands? And while some were familiar but still unfulfilled, others were bracing in their novelty and ambition. There were calls for a debt strike movement and domestic debt relief; the restoration of unions and the social welfare state, as part of a renewed campaign for the redistribution of wealth; a ban on lobbyists from any involvement with the bailout, and on former Clintonite deregulators Robert Rubin and Lawrence Summers, specifically, from any role in devising the nation's economic policy; the revocation of the Fed's charter and the dedication of monetary policy to the interests of the people; and the "internationalization" of the oil companies, with proceeds to be used to create a trust for a sustainable global economy. There Is No Alternative? Try these.

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NEWS & ANALYSIS

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AROUND THE NATION

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ACT NOW

Support young activists

Dr. Paulson's Magic Potion

American capitalism is having a nervous breakdown, losing confidence and acting out in self-destructive ways. Let's try talk therapy. No, wait, it's more serious—a case for high-powered drugs. No response? Maybe high finance has a brain tumor. Time for surgery! Cut out the bad parts and things will stabilize. Hold on. The patient is swooning now, gasping for air and trembling with seizures. Oxygen! Blood!

COMMENT

We need a massive transfusion to rid the body of toxins. Doctor, the patient is flat-lining. What's next? Shock therapy?

My mordant medical metaphor sounds a trifle cruel, given the massive losses people are suffering, but it roughly describes the stages of diagnosis and cures with which the government has hesitantly attempted to heal the collapsing financial system. Each new cure revives hope that the worst is over—at least until the symptoms start darkening again. The doctors in Washington changed their diagnosis once more when Treasury Secretary Henry Paulson announced his latest magical medicinal potion—a \$250 billion relief package to be invested directly in stock shares of the nine largest banks and spread more thinly among hundreds of smaller banks. The stock market cheered wildly with a 936-point rally in the Dow, as well it should have. Wall Street had just secured a fabulously well-heeled investor.

This time Paulson is much closer to a genuine solution, but hold the celebration and keep your eye on the patient. The government's new outline is deliberately vague about how exactly the Treasury and Federal Reserve intend to execute the details. The proposal implies but does not say that the government is taking charge of the banking system and will use its emergency powers to compel bankers to restart lending to restore the real economy of producers and consumers. Maybe that's what Paulson has in mind, but he made no promises. The public money gives a comforting tonic to the bad boys of Wall Street, but it's still packaged as a voluntary approach—not to be confused with the genuine nationalization that Britain and other governments have undertaken.

Nationalization is the "shock therapy." We may yet see it before this turmoil is ended. Naturally, it is ideologically offensive to the Bush administration, and especially to Paulson's old colleagues and rivals on Wall Street. Taking control would impose on the government the daunting challenge of reshaping these large and overbearing institutions, winnowing out banks that deserve to die and instilling in the survivors formal obligations to serve the national interest they have willfully betrayed for a generation. That task will probably be left to Paulson's successors.

Without taking explicit control, the government is simply betting the bankers will cooperate in exchange for rescue. Maybe they will start lending again, but maybe not: banks are in a deep hole of their own making, having lost more than a trillion. Typically, they apply tightfisted lending tactics to heal balance sheets—the opposite of what the country needs from them now. The \$125 billion or so targeted for the nine biggest banks will not be enough to heal them all. Institutional Risk Analytics, a bank monitoring firm, says \$250 billion in capital injections "will be just the down payment to get through the wave of loan losses headed for some of the

Noted.

MORE POWERFUL THAN CHENEY: Sarah Palin has a weird definition of “vindicated.” The Republican nominee for vice president claims to be “very, very pleased to be cleared of any legal wrongdoing, any hint of any kind of unethical activity there.” In fact, the 263-page report by veteran prosecutor **Stephen Branchflower** on the Alaska governor’s firing of a top state law enforcement officer who refused to fire her former brother-in-law, a state trooper, found that “Governor Palin abused her power by violating (the section of) the Alaska Executive Branch Ethics Act” that says “any effort to benefit a personal or financial interest through official action is a violation of that trust.”

The *Anchorage Daily News* labels the governor’s attempt to spin the report in her favor “Orwellian.” That’s true. But be careful about getting lost in the Palintological details of the governor’s attempts to tamp down discussion of her wrongdoing in Alaska. What ought to concern voters this November is not merely Palin’s status as an officially confirmed abuser of power but, more important, the fact of her enthusiasm about further upsetting the federal system of checks and balances. In the vice presidential debate, the governor declared herself to be “thankful the Constitution would allow a bit more authority given to the vice president.” Only Vice President **Dick Cheney**’s copy of the Constitution allows the flexibility that Palin imagines, and remarkably, after eight years of Cheney’s power grabs, the Republican nominee to succeed him proposes “a bit more.” Of all the disqualifiers for the McCain-Palin ticket, this one merits consideration for the top of the list.

JOHN NICHOLS

PHONE SEX AND NATIONAL SECURITY:

To the many novel questions that the Bush administration’s “war on terror” has raised regarding security and liberty, add a new one: what does phone sex have to do with preventing terrorism? An October 9 *ABC News* story based on independent accounts of two former military intercept officers

with the National Security Agency reported that the NSA surveillance program routinely intercepted extremely private calls of Americans abroad having more to do with sex than security. Giving “information sharing” new meaning, officers would tag the conversations and pass them around to their fellow intelligence officers.

According to **David Murfee Faulk**, a former Arab linguist for the Navy, he’d be told by another soldier, “Hey, check this out, there’s good phone sex...pull up this call, it’s really funny, go check it out. It would be some colonel making pillow talk and we would say ‘Wow, this was crazy.’” A linguist with the Army Reserves assigned to the NSA told of listening in on hundreds of conversations of Americans abroad, including many workers for the International Red Cross and Doctors Without Borders.

The administration’s response was predictable: A spokesman for Gen. **Michael Hayden**, head of the NSA at the time these incidents occurred, asserted that “the notion that General Hayden sanctioned or tolerated illegalities of any sort is ridiculous on its face.” Really? Isn’t Hayden the man who oversaw the NSA spying program at a time when the whole program was criminal on its face because it violated Congress’s criminal prohibition on any foreign intelligence electronic surveillance undertaken outside the purview of the Foreign Intelligence Surveillance Act?

In July, Congress amended FISA to authorize the NSA to conduct massive electronic surveillance with no individualized suspicion or warrant, so long as the surveillance is targeted at people or organizations believed to be located abroad and the purpose is to gather foreign intelligence. Under this bill, the collection and sharing of “pillow talk” calls by Americans overseas with their spouses or lovers back home would be perfectly lawful.

Defenders of the NSA spy program have often dismissed critics with the argument that if you’re not talking to Osama bin Laden about plans to blow up a shopping mall, you have nothing to hide and nothing to fear. But the latest revelations make clear that we all have something to fear when

government officials are authorized to intercept our most private forms of communication without the safeguards of a judicial warrant based on individualized suspicion of wrongdoing. Privacy is an invaluable aspect of our everyday lives, not just a tool for those committing or planning crimes. And when government programs abandon their focus on suspected illegality, as the NSA spy program did—and as the new Attorney General guidelines for FBI investigations, released October 3, do—“pillow talk” is no longer something between spouses or lovers but between spouses, lovers and General Hayden.

DAVID COLE

A REFUGE FOR HAITIANS: A little-known bill languishing in the House Judiciary Committee could spare some 20,000 undocumented Haitian immigrants the ordeal of returning to a country crippled by storms and food shortages. The Haitian Protection Act of 2007 would allow Haitians currently residing in the United States to apply for “temporary protection status” (TPS)—a quasi amnesty for immigrants from politically or environmentally unstable countries. When Congressman **Alcee Hastings** introduced the legislation in January 2007, he cited the country’s ongoing political unrest and devastation from tropical storm Jeanne in 2004.

The recent barrage of storms have further ravaged Haiti’s already fragile infrastructure. Flash flooding has washed out roads and bridges, drowned crops and displaced as many as 1 million people. The country is in no shape to absorb deportees.

Late last month, Hastings testified before the House Foreign Affairs Committee’s hearing on disaster relief for Haiti, insisting that TPS was a necessary part of the package. Shortly after, the Congressman, backed by thirty-one of his colleagues, sent a letter to Homeland Security Secretary **Michael Chertoff** requesting TPS for Haitians. For now, Immigration and Customs Enforcement has temporarily suspended deporting Haitians. The agency did the same thing after Jeanne and then recommenced expatriation a year later. Haiti was unstable then, as it will likely be in the coming year. DANIELLE DOUGLAS

larger players in the US banking sector.”

Meanwhile, the money provides a feel-good tonic for the club—the relatively small congregation of financial institutions that exert such oppressive influence over business and society, not to mention politics. Paulson is handing them cheap money (ours) that will initially earn only 5 percent, even as Warren Buffett gets 10 percent dividends on the capital he provided Goldman Sachs. Nor does the public get a controlling interest, or even seats on the board, for its generosity. The choices Paulson makes as he hands out the public money will effectively design the future—making the big boys even bigger and more arrogant, since they know the government will not let them fail. Informed financiers already see the nine largest banks consolidating into four behemoths. The next president and treasury secretary (if they have the nerve) will have to confront this question of scale and cut the big banks down to size—small enough to fail without damaging society.

Dr. Paulson’s latest cure has once again left out something important—American society at large. There’s a lot of cheap talk about Main Street, but nothing in this plan helps the folks who are taking it in the neck through bankruptcy or unemployment. When Paulson met privately with the CEOs from the nine leading banks, he presumably asked them to be kind to the debtors. He ought to have commanded the bankers, one by one, to stop foreclosures, roll over debts and give people time to work their way out of their predicament, or else government would shut its lending window and dump the banks’ stock.

Fortunately, Bush and Paulson are lame ducks. They will be replaced soon (we fervently hope) by Barack Obama, who is addressing the side of the crisis that Republicans always ignore—what’s happening to the people. Obama has revised and expanded his agenda, and he does not intend to wait until January. Many of his proposals can be undertaken right now by Treasury and the Fed. Others can be swiftly enacted by Congress in a lame-duck session right after the election. If bitter Republicans wish to filibuster or Bush wants to veto, that will simply deepen their party’s shame.

John McCain responds to the crisis with grandly irrelevant ideas like cutting the capital gains tax in half, but also useful ones like reducing the tax rate on withdrawals from IRAs and a mortgage plan similar to the New Deal-era Home Owners’

Loan Corporation that Hillary Clinton has led many Dems in proposing. Obama proposes smaller but concrete measures like a ninety-day moratorium on home foreclosures. Banks that receive government aid would be told not to act against families trying to make payments, even if they are behind. Bankruptcy judges would be authorized to modify mortgage terms. Families could withdraw money from retirement accounts to pay bills without being penalized. Obama would extend unemployment benefits and suspend taxes on that income. He would give small businesses a \$3,000 tax credit for each new job they create, and distribute \$50 billion to states and localities to finance roads and bridges and to make schools energy efficient. He would double the capital loan to the auto industry, to \$50 billion.

These and other proposals are of course excellent fodder for the closing days of the campaign. But they also suggest the Democratic candidate is moving rapidly to adapt to the crisis that awaits the next president. Economic turmoil has instilled a dynamic process in politics, driving everyone, including voters, to new ground. We are likely to see even larger changes in the coming months. The treasury secretary seems out of breath. Obama appears to be getting his second wind. WILLIAM GREIDER

Waiting for the Barbarians

In case you haven’t heard, there’s a guy running for president named Barack Hussein Osama Nobama. This Nobama was born outside America and secretly schooled in Islamic terrorism at a Wahhabi madrassa. He then moved to the United States to take up the radical ’60s teachings of the Weather Underground’s Bill Ayers, while also organizing for ACORN, a subprime-lending, voter fraud-committing collective of affirmative-action welfare queens. All this happened before he became an elitist celebrity advocate of socialism, infanticide, the sexual abuse of children and treason.

COMMENT

Suffice it to say, this caricature stretches even the limits of comic imagination. The real Obama’s Christianity, his patriotism, moderation and commitment to capitalism, law and order, and national security are matters of abundant public record—some of which displeases the left wing of his party. But this is of little import to the Republican rank and file. For them, the fallaciousness of the whole counts for less than the suggestive appeal of the parts. All John McCain, Sarah Palin and their surrogates need to do is raise the insidious question—“Who is the real Barack Obama?”—and the zealots conjure the rest, along with cries of “Treason!” “Kill him!” and “Off with his head!” The virulence of such rhetoric makes even Palin seem thoughtful; she at least inserts whole verb phrases like “palling around with” in between nouns like “Barack Obama” and “terrorists.”

Such scenes are alarming not only because of the McCain campaign’s willingness to stoke such murderous mania but also because of its apparent inability to control the madness once it has been unleashed. At more than one rally, McCain has been booed by the audience for attempting to interrupt panicked rants about the impending socialist or terrorist takeover of America. The crowd’s immediate anger is directed not at Obama and the Democrats but at their own party’s standard-bearers,

Calvin Trillin, Deadline Poet

‘He’s Not One of Us’

As John McCain’s chances seem weakened or dead,
Republican rallies become mobs instead.

They have no civility left—not a shred.

They curse at Obama, their faces bright red:

“A traitor!” “A terrorist!” “Off with his head!”

“He’s not one of us,” Sarah Palin has said.

Lucky him.

who should be “representing us” but have so far refused to “take the gloves off” and “take it to Obama” and “hit him” in “a soft spot.” If the GOP leaders don’t give these folks what they want, they had best watch their own soft spots, for there is no shortage of backbenchers ready to seize the helm. Take Jeffrey Frederick, the 33-year-old chair of the Virginia Republican Party, who said that Obama and Osama bin Laden “both have friends that bombed the Pentagon.” Denounced by the McCain campaign, Frederick has defiantly refused to apologize for his remark.

Perhaps he knows which way the wind blows: the Republican Party’s electoral strategy of sowing resentment and fear—sprung from Nixon and nurtured by admen like Lee Atwater, Floyd Brown and the Swiftboaters—has finally taken on a life of its own. It thrives as a postmodern pastiche of conservative hate speech that no longer requires a master—a Frankenstein monster freed from his creator. What holds this beast together is not the fear and loathing of any particular despised identity so much as the idea that America is under siege, disordered, on the cusp of imminent and total collapse, threatened by terrorists abroad and undermined by enemies at home.

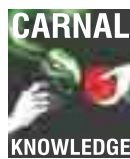
Of course, certain pariahs are useful in certain times. In the old lexicon it was Communists, feminists and gays who peopled the right wing’s paranoid imagination, and if the sheer breadth of the slander by association against Obama is any indication, these bugaboos are still of value. But this time around the terror has been most sharply drawn along the lines of xenophobia and racism, a potent combination of hostile drives of which trolls like Andy Martin, the anti-Semite behind the “Obama is a Muslim” e-mails, are but minor instigators. The real enablers are demagogues like Rush Limbaugh, Ann Coulter, Michelle Malkin and Glenn Beck, who have made careers out of inciting frenzied aggression at anyone to the left of Joe McCarthy. Only now it seems that even these right-wing pundits have been outdone by their formerly loyal listeners. Coulter, whose contempt for Muslims (“invade their countries, kill their leaders and convert them to Christianity”) is surpassed only by her scorn for liberals (“even Islamic terrorists don’t hate America like liberals do”), has yet to call for the assassination of Barack Obama. But if she genuinely believes that liberals are more dangerous than Islamic terrorists, she should follow the courage of her convictions and do so.

To pre-empt such embarrassing displays of weakness, softer propagandists like Andrew Sullivan and Christopher Hitchens—who once brayed on and on about the left’s “hatred of the United States” and its role as a “fifth column” “in favor of surrender and defeat”—have declared their support for Obama. But as Hitchens’s recent endorsement in *Slate* amply demonstrates, he is not quite ready to give up the poisoned sword. Obama, he writes, is not a “capitulationist,” even if he does “accept the support of the surrender faction.”

If the polls are any indication, Obama will endure this smear campaign just fine, with or without the backhanded compliments of apologetic neocons. And if his election is not quite the ringing victory for civil rights and liberties, diplomacy and cosmopolitanism that we might like, it will at least beat back for a while the idea that defaming these values as traitorous constitutes sound electoral strategy. If Obama wins, and the barbarians do not show up to rattle the gates, what will the conservatives do next? For them, the barbarians were a solution, of sorts.

RICHARD KIM

Scenes From the Crackup



Prologue. Someday far into the future, historians and social archaeologists out to discern the spirit of the time before the economic crackup might skip past the stock indexes and Wall Street tellalls and excavate instead the junk mail embedded in computers moldering amid the ruins of life as we know it today. There they will find recorded the anxieties and aspirations, the hungers and delusions of the age:

Ready to Refinance?...adjustable rate mortgage...ashamed of your size...add a huge asset to your physique...which lender will you choose...make your girl HAPPY...make her wet and crazy...Rates are near 40 year lows...Rolex Replica Watches...Cialis \$2.26, Viagra \$1.31...get out of debt quickly...Turn Your Snake Into a Mighty Python...Your Home. Your Price.

Behind the scrim of boom there was always debt and sex, family and home and secret pursuits, an intimate economy of panic and desire. The engine that drove construction and consumption on credit simultaneously drove a supposed epidemic in sexual dysfunction—ED, FSD, HSDD—and exploding markets for manuals, therapies, Dr. Phil and drugs, mostly drugs. The backhoe and the little blue pill, the crane and Cialis; one way or another, happiness was just an expensive erection away.

While credit was easy, straight men, particularly those who prospered off the bubble, could pursue that happiness as they always have, freely circulating capital in the form of money, goods and emotions among wives, girlfriends and hookers. Not every man was so sexually leveraged; what mattered was that he might be, that every potential need had a market to satisfy it, and every market had the means to stoke and restoke desire in a mutually reinforcing system of monogamy, adultery and prostitution. That system, as old as the credit system and even more dependent on trust, confidence, magic and risk, was always messy, because love is complicated and sex might be, and because in a culture for so long ruled simultaneously by having it all and never having enough, how do you measure need?

Now, like Wall Street, the intimate economy is in turmoil. Just as the simple act of a family’s mortgage default, multiplied many times over, has rocked the rococo system of credit and finance, so the financial crisis affects the rococo system of monogamy and its adjuncts, as well as the myriad services that support and are supported by them, from the beauty industry to childcare to telecommunications, from low end to high. Where sex is concerned volatility reigns, and not just because its business but because it’s life.

Act I. Scene I. Before. Ed Hayes, New York attorney and man about town, has long gauged the stock market’s temperature by a High-End Girlfriend Index and High-End Stripper Index. “When times are really good, guys spend fortunes at strip clubs: \$2,000, \$5,000... You got a 20-something-year-old, he just got a \$3 million bonus, he might spend \$20,000 in one night. This guy in a club once says to me, ‘Listen Eddie, whatever I spend it’s cheaper than the divorce.’” Likewise, a courtesan’s time, even if it cost \$10,000 a month, was a bargain next to the package for courting the young, fashionable girlfriend: the lease on a car, the \$2 million Lower East Side condo, the dinners and baubles and \$1,265/night weekend getaways at

the Mandarin Oriental. Hayes has represented women after relations with the married boyfriend went sour: "I tell him, it'll cost you a couple million to straighten out; it'll cost you \$50 million for the divorce; you figure it out."

Such was the situation before panic set in at the top. In the intimate economy, sex has always been the least of it, particularly at the levels of mad wealth, where transaction costs take a different form. Average townhouse: \$17 million. Baby: \$50,000. One-day Yelling Center evaluation of the child's bad behavior: \$4,250. One week of Leg School at the Capri Palace Hotel and Spa for the frazzled mom: \$4,923. An hour's tutoring: \$500. Country retreat: \$2 million, \$20 million... If anyone reflected that there might be a price for creating volatility to generate commission fees and bonuses, for causing despair through gentrification or foreclosure, it didn't amount to much. In the web of exchange relations, perhaps the only person who fully grasped the extreme privilege and vulnerability of her situation was that relative rarity, the high-end call girl who had hustled her way up from the cheap brothels and champagne bars, and whose survival has always depended on a careful calibration of spreading her risk.

Scene II. The phone stopped ringing. Sandra was the new girl with the agency in July, when she was getting twenty calls a night for phone sex, while established workers got fifty. Most callers wanted her "co-ed" character—blond, petite, barely legal. Some wanted her mature lady. About five times a month someone called for her "ebony" character. Sandra is 35, creole—black to white men, unless she tints her hair red and wears green contacts to bring out her Latin features, as she sometimes does to get a gig dancing in a club. Since the crash, her twenty callers have dwindled to six; the other girls' to twenty. Instead of thirty-minute calls, they're mostly ten minutes now, at \$2.99 per minute, but she doesn't get paid unless she holds the call for five minutes, and "a lot of these guys are already in the midst of happiness when they call." The day the bailout passed she got fifteen calls.

Phone sex agencies accept credit cards. Sandra, who is a member of PONY (Prostitutes of New York) but lives in Philadelphia, knows massage girls who have stopped taking cards. "I always believe in having cash on hand, and I always believe in having a civilian job." Sandra also works as a mid-range escort and picks up jobs housekeeping and catering. She recently dropped a longtime client because he demanded a deep discount. He'll find it somewhere. On Craigslist, escort rates have been moving like the Dow ticker. Women who had \$400-an-hour rates are running specials. Low-end ads are chockablock, but hourly prices are dropping: \$180, \$160, \$100; indoor workers are offering out-calls, offering car dates. Amateurs are entering the market. You can smell danger. Sex workers in New York have been under heavy weather from raids and surveillance all year. *Spread* magazine estimates that "commercialized vice" and prostitution-related arrests nationwide have swung between 90,000 and 110,000; one editor, Monica Shore, worries that those will rise as cash-starved localities see opportunity in extracting fines.

Scene III. Deleveraging. As Lehman employees carried out their things in champagne crates, a friend and former sex worker remarked, "The worse shit gets, the more people escape to sex: paid-for sex, free sex." The question is how the

scale might tip. Ed Hayes speculated that this might be a good time for some high rollers, those who have watched their net worth collapse, to get that divorce. On the Internet a debate swirled around the "depreciating assets" of high-end girlfriends. Wall Streeters confide to their shrinks that they're sneaking out to cheap massage parlors three or four times in the afternoon, calling escorts, visiting dungeons or strippers almost nightly. "Most people don't lie about going to strip clubs anymore, so they'll cut back on the budget for that, like any entertainment," my friend said. "But the hooker budget is secret. I'm not so sure they give that up." Sudhir Venkatesh, a dogged interviewer of prostitutes, wrote in *Slate* that they will do fine in the downturn. Indoor hookers are like psychiatrists now.

W don't think we're like therapists; we're like beauticians, except business is illegal," said Tracy Quan, retired, whose rakish novel *Diary of a Jetsetting Call Girl* is also a deft account of occupational rigors and anxieties in an elite slice of the business just before the crash. In hard times a client might go longer between visits, might want less than the full treatment, might talk more about problems (or not), might expect that loyalty counts for something, and as every hairdresser knows, it does. But a pro is a pro. "If you're really going to make your living, you cannot get by on conversation. Bottom line, you have to make sure the guy comes. Especially if you want repeat business, if you don't want to be out there meeting Jack the Ripper." Like the hairdresser, who is hurt when sex workers have less money to spend, the hooker will have to be flexible, to do more with less, and do it gracefully, with a confidence that neither the markets nor the arm-candy girlfriend and maybe not even the wife has.

As the tongue-in-cheek analyst team of longorshortcapital.com, parodists of investment science, replied to a question about the relative position of high-end players in the intimate economy:

"In good times, men are flush with cash and looking for strange but are also less dysfunctional; this leads to an allocation towards a basket mainly consisting of High-end Wives, with maybe a 15% position in High-end GFs and a 2-5% position in High-end Hookers. As markets worsen and/or crises take hold, Man is increasing dysfunctional and looking for ego offsets. It is also in this time when Man typically contemplates or engages in life restructuring which can entail simple cost saves, like head-count reduction, or even full-on recapitalization, flushing out the junior capital. A successful market-timing Man will typically have a portfolio composed of 60% High-end hookers, 30% High-end GFs and 10% value High-end Wives when the market is bottoming. As the cycle comes around, the High-end Hooker position is reduced opportunistically, some of the High-end GF portion transitions organically to High-end Wives and the value High-end Wife position is added to with more growth High-end Wives. As to relative vulnerability, obviously Man will be ok and everyone else will (still) be fucked in a recession. This is what historically has been true according to the data we have. Additionally, the cross-cyclical trend we see is that everyone else will still be fucked."

Tongue in cheek, but there's a truth in every joke, and the first act of this crackup has just begun.

JOANN WYPIJEWSKI

Patricia J. Williams

Predatory Scapegoating

Some three weeks before New York Governor Eliot Spitzer was forced to resign his office in disgrace (sex! scandal! floozies!), he published

an op-ed in the *Washington Post*. Titled “Predatory Lenders’ Partner in Crime: How the Bush Administration Stopped the States From Stepping In to Help Consumers,” the piece expressed Spitzer’s concern that for several years there had been a marked increase in predatory lending practices, including distortion of terms, surprise balloon payments, hidden fees and deceptive “teaser” rates. These practices, he wrote, were having a “devastating effect on home buyers.” In addition, the sheer number of such transactions, “if left unchecked, threaten...our financial markets.” To those in the know (OK, those few egg-head “elites” not enthralled by the birth of the Brangelina twins), the situation loomed so egregious that the attorneys general of all fifty states, both Democrats and Republicans, lodged suits against the worst predatory subprime lenders. A number of states, including New York, passed laws to rein in such practices.

The response was shocking, and not nearly well-publicized enough: the Bush administration employed a little-used 1863 law to annul all state antipredatory-lending laws and, if that wasn’t enough, to block states from enforcing their own consumer protection laws in suits against national banks. Thus, when Spitzer tried to open an investigation into discriminatory mortgage lending in New York, the administration actually filed a federal lawsuit to block it. These interventions were so extreme and so unprecedented that the attorneys general and the banking superintendents of all fifty states came together to oppose the rulings unanimously. But to no avail.

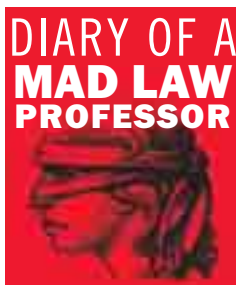
It is worth quoting the last paragraph of Spitzer’s op-ed in its entirety: “When history tells the story of the subprime lending crisis and recounts its devastating effects on the lives of so many innocent homeowners, the Bush administration will not be judged favorably. The tale is still unfolding, but when the dust settles, it will be judged as a willing accomplice to the lenders who went to any lengths in their quest for profits. So willing, in fact, that it used the power of the federal government in an unprecedented assault on state legislatures, as well as on state attorneys general and anyone else on the side of consumers.”

Spitzer wrote his article eight months ago, in February. To some, it might be tempting to characterize his observations as prescient. It’s probably more accurate to say that Spitzer just had his eyes open (if not for Mata Hari)—and he was not alone. Nobel Prize winner and *New York Times* columnist Paul Krugman has been sounding the knell for a very long time. But, frankly, I worry that even now there is too little attention—in media or in political debate—to the incremental ingredients of this crisis. For it is not merely a failure to regulate Wall Street; it’s a failure to govern at all. The FDA is packed with industry insiders who seem content with the gross understaffing of in-

spection bureaus. Animal feed laced with melamine was imported from China, consumed here and has now entered the human food chain. Nontherapeutic experimentation with pesticides on humans has been given the nod. Pharmaceutical companies have gotten approval for drugs like Vioxx and Fen-Phen that should never have been put on the market. Efforts by farmers to do voluntary testing for mad cow disease have been blocked by the Agriculture Department. The Justice Department’s civil rights division has been gutted. The FCC has hacked away at public access to the airways and OK’d obscene concentrations of media power. The Transportation Department is underfunded beyond all conscience, and the toll has been tragic: collapsed bridges, breached levees up and down the Mississippi and nearly unnavigable railroad tracks. And FEMA... well, we all remember FEMA.

Maybe now is not the time to be ungraciously partisan; perhaps in the middle of the tornado we “don’t want to argue about causes,” as Sarah Palin said of global warming. But let’s make one thing crystal clear: neither this global economic catastrophe nor the impending plunge in our standard of living is the fault of poor blacks or other disenfranchised minorities. It should be obvious, I suppose: African-Americans are only about 13 percent of the population, and about 48 percent of them are homeowners. Yet I emphasize this because to listen to some widely exported theories by John McCain’s surrogates and right-leaning radio shock jocks, you could get the impression that this all came about because penniless black slackers took out home loans they were just as unqualified for as the jobs they stole from more qualified white contenders.

Perhaps the most insidious and ubiquitous propagation of this imagery is the McCain ad that features a scary photo of Franklin Raines, former head of Fannie Mae, the single black head of any organization implicated in this mess. Yet of all the hundreds of CEOs, crooks and swindlers who could be named—from Ken Lay to AIG’s Christopher Swift to Jack Abramoff—it is Raines who is used as the Willie Horton-ized whipping boy of civilization’s downfall. This is pure manipulation: Raines is not connected in any way to Barack Obama. Yet McCain’s campaign director was a top manager at Fannie Mae. If we must look for figureheads, allow me to nominate George Herbert Walker IV, who just happens to be George W. Bush’s second cousin. He also happens to be Lehman Brothers’ investment management director, who, just before the firm’s collapse, dismissed a suggestion from the asset management firm Neuberger Berman that top executives forgo their multimillion-dollar bonuses so as to “send a strong message... that management is not shirking accountability for recent performance.” Walker actually apologized that the very notion had been circulated: “Sorry team. I am not sure what’s in the water at Neuberger Berman. I’m embarrassed and I apologize.” ■



Eric Alterman

It's Sliming Time (Again)

Sarah Palin says Barack Obama “launched his political career in the living room of a domestic terrorist” and is fond of “palling around with terrorists.” The McCain campaign releases ads calling Obama a liar who has “worked with [a] domestic terrorist.” Virginia GOP chair Jeffrey Frederick notes that Obama and bin Laden “both have friends that bombed the Pentagon.”

We have seen this movie before. It's not just the Swiftboat liars four years ago—liars whom George W. Bush refused to repudiate. His father, George H.W. Bush, who is treated as an honorable elder statesman who possessed all the virtues one might desire in a president, followed the same dirty-tricks playbook. He beat Michael Dukakis in 1988 by exploiting psychosexual fears of black criminals with the notorious “Willie Horton” ad. The Bush campaign claimed at least one degree of separation from the spot because it was produced and marketed to cooperative television news programs by an independent conservative organization. But in the new documentary *Boogie Man*, about the life of Bush campaign chair and former RNC head Lee Atwater, Republican consultant Roger Stone reports that Atwater showed him the ad before it aired and told him he had arranged to keep the campaign's fingerprints off it for the sake of appearances.

Four years later, when Bush grew desperate as he fell behind Bill Clinton in the campaign's final days, appearances were tossed overboard and Bush all but accused his opponent of being a Communist spy. Twenty-six days before election day, Bush wondered aloud on *Larry King Live* just what Clinton had been doing on a trip he took to Moscow twenty-three years earlier, when the candidate was a Rhodes scholar, and “how many demonstrations he led against his own country from a foreign soil.” These followed attempts by Assistant Secretary of State Elizabeth Tamposi, pressured by the White House, to search through Clinton's passport files for a rumored letter in which Clinton allegedly renounced his US citizenship. Though nothing was found, the campaign leaked word of the alleged letter to *Newsweek*, which insinuated that perhaps such evidence had been removed earlier. The conservative press was much smaller and weaker back then. Fox News did not exist, and talk-radio was in its infancy. The Rev. Sun Myung Moon's *Washington Times* floated allegations in early October that Clinton could have been a Soviet “agent of influence.” This was considered too implausible, however, to get much pickup in the then-all-powerful mainstream media.

Now, of course, almost nothing is out of bounds. On Fox recently, Sean Hannity hosted “author and journalist” Andy Martin, originator of the Internet campaign to convince the ignorant that Barack Obama is a Muslim. Martin told viewers that Obama had been in “training for a radical overthrow of the government.” Hannity and his Fox colleagues apparently saw nothing objectionable in relying on a source with a history of

emotional problems who called a judge a “crooked slimy Jew” and who has said he understands “how the Holocaust took place, and with each passing day feel[s] less and less sorry that it did.” (Recall that the program *Fox and Friends* resorted to the Nazi-style tactic of retouching a photograph of a Jewish journalist to exaggerate his nose and teeth; they even put his face on the body of a dog.)

Yes, these are extreme examples, but unfortunately such practices have become routine in the world of conservative media. To look outside presidential politics for a moment, *Wall Street Journal* columnist Mary O'Grady recently published an attack on House Speaker Nancy Pelosi and Representative Jim McGovern, in which she accused the pair of playing “footsie” with Hugo Chávez and the Colombian rebel group FARC. She charged that “Jim McGovern's name is all over the captured FARC documents and when a Wall Street Journal editorial

reported as much in March, the Massachusetts Democrat didn't deny it.” That March editorial had claimed that McGovern had headed “an ardent effort to do business directly with the FARC.” O'Grady's missive was accompanied by a photograph of the two with Colombian Senator Piedad Córdoba, who, O'Grady wrote, was a “close friend” of Chávez and had close ties to the FARC. She noted that in the photograph, both Pelosi and Córdoba were “dressed in matching *chavista* red.” She ended her piece by

taunting liberal Democrats to “come out and say whose side they are on.”

What O'Grady failed to mention about the allegedly incriminating photograph was that it was taken after Córdoba was appointed by Colombian President Álvaro Uribe—a friend of the Bush administration and of many right-wingers—to aid in hostage negotiations with the FARC. As for the charges against McGovern, since when do journalists accept the unverified boasts of foreign terrorists? (McGovern not only denied the allegations in a letter to the paper—O'Grady had not contacted him in advance—he pointed out that they also contained information about an alleged meeting he had with the Nobel Prize-winning novelist Gabriel García Márquez, something I'm sure he *wishes* had taken place but unfortunately had not.) It will probably not surprise anyone that *Journal* editors have defended the practice of lying on their editorial pages, calling the disproven allegations of the Swiftboat liars “no doubt contentious, but...of a piece with the contemporary bipartisan standards of adversarial politics.” If this is in fact true, it is due, at least in part, to the *Journal* editors' efforts to mislead their readers in the service of their deeply ideological goals.

Sure, politics ain't beanbag, but the cost of tolerating this kind of thugishness in today's environment is too high to ignore. Verbal violence has already begun to infect conservative discourse as Obama cruises to victory, and its physical manifestation may not be far behind. Pray we do not reap what they have so heedlessly sown. ■



Gary Younge

Obama's Virginia Territory

Roanoke, Virginia

At the end of the day even the most sophisticated grassroots electoral campaign relies on people. People like Meghan Schertz, a 29-year-old Obama volunteer, who's given up her Sunday afternoon to canvass the Washington Heights area here.

But it also depends on the people whom volunteers like Meghan meet. The names on her list are the product of data based on magazines they subscribe to, cars they drive, shops they visit and past votes they've cast. Each has a bar code, and Meghan has to place them on a five-point scale ranging from strongly for Obama to strongly for McCain.

It sounds like genius. But in practice it looks like little more than educated guesswork. The house with two pickup trucks bearing Harley Davidson stickers is leaning Obama. Before she can open her mouth at another house, the man glances at her Obama badge and says, "I don't want to talk about it" and shuts the door. Next comes the woman who refuses to open the door, preferring to shout from the window, "I'm for Obama, so go on now." The man with the Nader yard sign threatens to shoot her unless she gets off his property. "So you're an independent then?" asks the unflappable Meghan.

It's the day before Virginia's voter registration deadline, and Schertz, who has never been involved in an election campaign before, struggles to find a street on a poorly drawn map. The sun sets before she can finish all the names on her list. Where people are concerned, you can only plan for so many eventualities.

Look carefully at an electoral map of southwest Virginia, and you'll spot Roanoke, a tiny blue island bobbing around in a sea of red. Four hours by car from the nearest Republican county to its west and two to the south and east, it nestles in a valley between the Blue Ridge Mountains and the Appalachians. It's a town of just under 100,000 in a swing state—a town Barack Obama must win big if he is to be the first Democrat to take Virginia in more than forty years, in an area John McCain must win big if he is to have any chance of taking the presidency.

So far, things are going Obama's way. In this region he has outspent McCain on TV advertising—by two to one—and outmaneuvered him many times over. Obama has been to this region three times. In the past three weeks Bill Clinton, Evan Bayh and Terry McAuliffe have dropped in too. Neither Sarah Palin nor McCain nor any surrogates have yet visited. Obama's aim is not to win the region—although he should take the town—but to limit McCain's margin of victory substantially here so that a big win in Virginia's northern suburbs and a good showing in Hampton Roads can take him over the top. A local politician says Obama would need 40 percent of the southwest vote if he's going to take the state. A recent Mason-Dixon poll gave him 39 percent. Statewide, Obama is leading by around 6 percent.

There are, in fact, two Roanokes. The city is Democratic

with a black population twice the national average. It is divided by Route 581 from north to south, the railroad tracks from east to west and by race and class throughout. Crudely speaking, the southeast is poor and white; the southwest, affluent and white; the northwest is black; the northeast, more of a mix. In the last presidential election it went narrowly for Kerry (52 to 46) and in the primaries supported Obama (57 to 42).

The county, on the other hand, is Republican with a black population half the national average. It climbs up to the Catawba Mountains to its northwest and has the Blue Ridge as its border to the south. In 2004 it went heavily for George Bush (65 to 35) and, later, narrowly for Hillary Clinton (55 to 45). Both city and county gave huge majorities to Mike Huckabee a full week after it was clear he could not win.

Ironically for a valley, the local economy does not endure huge peaks or troughs. But signs of the crisis are everywhere.

The name on Roanoke's only skyscraper is Wachovia—the region's fourth-largest employer. The day I arrived, it folded. At Pop's ice cream and soda shop more people are paying for floats with credit cards. The local insurance agency, Shenandoah Life, had its ratings downgraded because of its exposure to Fannie Mae and Freddie Mac. The food bank has seen a 9 percent increase in those seeking assistance. Virginia is set to ax 1,400 state jobs.

The economy aside, while Democrats talk about healthcare and the war, Republicans fear taxes and socialism. McCain is not popular in these parts (though Palin is), and the enthusiasm gap between the rival campaigns is stark. The task for the Obama camp is to translate that excitement into votes. The voter registration drive was their last chance to expand the base. They did well. In the final month the city saw three times the increase in new voters as the county. Now comes the hard work: keeping the new voters energized. The Obama campaign predicts that 80 percent of Virginia's new voters are Democrats and that three-quarters of them will show up on election day.

Turning them out may be easier said than done. For all the talk about a movement, the orders are coming from the top down and have yet to reach the ground floor. In a city that is one-quarter African-American, local black politicians worry that the Obama campaign is taking African-American support for granted. "The older crowd just don't connect with a 20-year-old white person telling a 50-year-old black person what to do," says Virginia House delegate Onzlee Ware. "Especially how to run their own communities. And then they get discouraged and go back to their communities." Black people here are excited about Obama's candidacy, they say, but there has been little coordination between the campaign and the community to mobilize that support. Obama has every reason to be confident, but no grounds to be complacent. "McCain can't win the presidency without Virginia," a local Republican told me. But as an African-American pointed out, "Obama can't win Roanoke without black folk."



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The next president and Congress must reverse the conservative tide of the Bush judiciary.

by HERMAN SCHWARTZ

The upcoming presidential election will shape the Supreme Court for decades to come. John Paul Stevens is 88, David Souter dislikes Washington and the 75-year-old Ruth Bader Ginsburg has been treated for cancer. One or more of these liberal Justices will probably leave the bench in the next four years. The replacement of one or two of them by a conservative would mean a rollback of key rulings of recent years.

Roe v. Wade has drawn the most attention, but many other liberal rulings of the past twenty years that were decided by 5-to-4 or 6-to-3 votes could be reversed. Even if these decisions are not overruled outright, conservative judges can obtain the same result by redefining what is protected, erecting procedural hurdles or forcing repeated expensive litigation. Here are some of the most important rulings that would be threatened by a McCain Court:

§ *Abortion*. To appeal to the religious right, John McCain promised to appoint more conservative judges like Chief Justice John Roberts and Justices Antonin Scalia and Samuel Alito, who would overturn *Roe v. Wade*. Some observers believe that these Justices would not jettison *Roe* outright, for fear of producing negative fallout for the Republican Party. But a McCain Court could eviscerate the law by adopting former Chief Justice William Rehnquist's strategy of redefining the right to an abortion as a mere "liberty interest." That

would open the door for Congress or the states to enact virtually any restrictive legislation short of total abolition. Minors would be particularly at risk. Currently they can avoid having to get their parents' consent as long as they obtain court approval, a difficult but not impossible hurdle; this option would probably be eliminated. It is also likely that the current protections for women against harassment when they go to abortion clinics would be eliminated or substantially weakened. A more conservative Court could also create a broad "conscience exemption" for pharmacists and other health workers who refuse to dispense emergency or other contraceptives, something right-wing religious groups have been urging in courts and legislatures around the country. The Department of Health and Human Services has proposed a regulation allowing such an exemption.

§ *National security*. Justice Anthony Kennedy was a key vote in *Rasul v. Bush* (2004), which extended American law to Guantánamo detainees, and the swing vote in *Hamdan v. Rumsfeld* (2006), which forced military commissions to comply with the Geneva Convention and the Uniform Code of Military Justice. He was also the swing vote in *Boumediene v. Bush* (2008), which granted detainees the right to habeas corpus. Should the dissenters pick up one more vote, Kennedy will lose that pivotal position.

§ *Church-state separation*. The Court banned official school

prayer fifty years ago, but Christian-right groups still attack or ignore the ban. The margin for upholding the ban in a recent decision was 6 to 3; with Kennedy and the now departed Sandra Day O'Connor voting with the majority, those decisions are vulnerable. Religious groups have also pushed for the right to display religious symbols in public spaces. O'Connor was the swing vote in the Court's most recent decision prohibiting such displays (*McCreary County v. ACLU of Kentucky*, 2005).

§ *Gay rights*. Five of the six members of the majority in *Lawrence v. Texas* (2003), the landmark case that ended the criminalization of same-sex intercourse, remain. The replacement of one of them by a conservative could threaten that decision. Even if *Lawrence* survives, gays' chances of ending discrimination in other areas—such as adoption, hospital visits and housing—are certain to be reduced.

§ *Affirmative action*. Ever since Kennedy joined the Court in 1988, the five conservatives, including O'Connor, have evinced indifference verging on hostility toward racial justice, particularly when employment discrimination and affirmative action were involved. They allowed limited affirmative action in higher education in *Grutter v. Bollinger* (2003) because O'Connor joined the majority, but that ruling is probably doomed because of her retirement. The 2007 Seattle and Kentucky decisions (*Parents Involved in Community Schools v. Seattle School District No. 1*), overturning policies intended to promote integration in elementary and secondary schools, left a very narrow window for dealing with racial segregation because Kennedy refused to go along with Roberts's sweeping opinion. That window would almost certainly close with a McCain-appointed Justice.

§ *Electoral issues*. Widespread gerrymandering has produced incumbency re-election rates of 90 percent or more. Four years ago in *Vieth v. Jubelirer*, Scalia and three colleagues tried to block judicial scrutiny of the practice [see Schwartz, "Out With Gerrymanders!" July 1, 2004], but Kennedy managed to keep the door open. He would become irrelevant on this issue as well with the first McCain appointee. The limits on campaign contributions, whatever McCain's views on campaign finance reform, might also be eliminated or undermined. Indeed, the current Court has already begun to weaken the McCain-Feingold law, in *Federal Election Commission v. Wisconsin Right to Life* (2007).

Other areas at risk include First Amendment protection for the Internet and expressions of dissent like flag burning, women's rights (Rehnquist was surprisingly supportive of them), protections for immigrants, the availability of legal services and environmental protection laws.

Some commentators have suggested that a large Democratic majority in the new Senate could block an extreme nominee. That is wishful thinking. No Supreme Court nominees have been rejected since the bitter fight over Robert Bork in 1987, and Democrats don't want to go through that kind of battle again. Moreover, it is very difficult to block someone solely on ideological grounds, as the Alito and Roberts nominations showed, particularly if the nominee is otherwise qualified and is a smooth performer, like Roberts, at the confirmation hearing. It will be especially difficult to block a female nominee, given the scarcity of women on the Court, and there are many

far-right women on the federal courts and elsewhere from which to choose.

Constitutional issues like those discussed above are a crucial but relatively small part of the Court's business, and few of them directly affect most Americans. The bulk of the Court's work involves the interpretation and application of federal statutes and regulations, which do touch the daily lives of all Americans. Republican administrations and an increasingly conservative judiciary have sought to gut laws and regulations protecting consumers, workers, the elderly and others. In the comments that follow (fuller versions at thenation.com), five authorities discuss recent and upcoming developments in these important areas of federal law.

Herman Schwartz, a professor of law at American University, is the author of Right Wing Justice: The Conservative Campaign to Take Over the Courts and editor of The Rehnquist Court, based on a special issue of The Nation. He would like to thank Simon Lazarus, public policy counsel to the National Senior Citizens Law Center, and Harper Jean Tobin (see page 15) for their help in preparing this symposium.

Federal Judges Can Be Hazardous to Your Health

by DAVID C. VLADECK

Americans assume that federal regulatory agencies assure that our drugs, medical devices, cars and other consumer products are safe, and that lawsuits deter manufacturers from selling products that pose unreasonable risks and compel them to compensate those injured by defective products. These assumptions are being undermined by Bush-appointed agency officials and pro-business judges, who dominate the Supreme Court and the federal bench. These judges are following administration arguments that actions by federal agencies "pre-empt" the right to sue.

Federal Drug Administration approval is no warrant that medical devices are safe, as witnessed by massive recalls of FDA-approved defibrillators, pacemakers, heart valves and heart pumps. Under previous administrations the FDA had taken the position that its pre-market approval did not pre-empt state tort suits. In 2002, however, it switched, and in February the Supreme Court ruled in *Riegel v. Medtronic* that people injured by FDA-approved medical devices will have to bear their medical and other costs, even though the devices were defective.

The Court may extend the pre-emption doctrine to drugs. Musician Diana Levine's arm had to be amputated because Wyeth's anti-nausea drug came into contact with her artery when it was injected into her vein, Levine claimed. The Vermont Supreme Court agreed that intravenous injection was so dangerous that Wyeth should have told physicians not to use it. The FDA argues that its approval of a drug's label bars any tort litigation over inadequate warnings, even though the agency was unaware of the risks. Victims of improperly labeled drugs, such as Vioxx and Celebrex, have successfully sued. If the Court agrees with the FDA, others injured by such drugs will have no recourse.

The pre-emption doctrine also affects auto safety. In 1995 Tina Griffith was seriously injured in a crash even though she was wearing a lap belt. She argued that the car should have been equipped with a shoulder harness, but in 2002 a federal

appeals court found that her claim had been pre-empted because the National Highway and Traffic Safety Administration's rules gave manufacturers the choice of using cheap, unprotective restraints—as in Griffith's car.

Rollover crashes kill more than 10,000 Americans and seriously injure another 25,000 each year. The victims who sue on the ground that the vehicle's roof should have been stronger often win. Auto manufacturers want to put an end to suits rising out of these accidents, and NHTSA has proposed a roof-strength standard that, by the agency's own admission, would do little to save lives because virtually all new vehicles already exceed it. Yet NHTSA claims that the proposed rule pre-empts tort suits under stricter state laws on crushed-roof cases.

David C. Vladeck is a professor of law at Georgetown University Law Center.

Health Cares

by SARA ROSENBAUM

Although federal judges are not blind to the healthcare system's flaws, they have almost invariably sided with hospitals, insurers and the government against individuals suing them. With government programs such as Medicaid, they are attempting to close the door entirely. For example, the Emergency Medical Treatment and Labor Act requires hospitals participating in Medicare to stabilize patients with medical emergencies using "the staff and facilities available at the hospital." Despite this plain language, a Federal Court of Appeals held in *Harry v. Marchant* (2001) that EMTALA obligations end after hospitals have admitted a patient. Thus, they can admit and then dump unstable patients.

In a 1999 case, *Doe v. Mutual of Omaha*, the insurance company was permitted to withhold coverage for HIV infection, contrary to the antidiscrimination provisions in the Americans With Disabilities Act. Insurers are free to sell policies that single out specific health problems—mental illness, cancer, MS, developmental disabilities in children—for exclusion from coverage. Finally, Medicaid requires states to guarantee that beneficiaries have the same access to care as other people, but most courts, encouraged by the Supreme Court's persistent drive to limit judicial access to those injured by corporate or official wrongdoing, now bar claims under this provision, on the ground that beneficiaries have no enforceable rights under the law.

Sara Rosenbaum is chair of the department of health policy at the George Washington University School of Public Health and Health Services.

Senior Rights & Wrongs

by HARPER JEAN TOBIN

Awave of federal court decisions in recent years have made it difficult and sometimes impossible for older Americans to enforce important rights, such as pension benefits, freedom from age discrimination, access to long-term care, compensation for injuries caused by faulty medical devices and decent treatment in nursing homes. Consider, for

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example, *Eichorn v. AT&T Corp.* (2001): the telecom giant had sold off a subsidiary in order to wipe out the pension rights of more than 1,000 employees. Although the employees had the right under their pension plan to transfer to other divisions of AT&T and retain their benefits, the corporation in effect canceled those rights by promising its buyer not to rehire them. A federal appeals court acknowledged that the corporation had intentionally violated the statute but nevertheless threw out the case, saying the law provided no remedies for the employees. Federal appeals courts have increasingly ruled that key protections in the Medicaid Act can't be enforced in court. In 2005 a federal appeals court blocked seniors from challenging an Oregon rule that, purely for budgetary reasons, deemed some seniors "not sick enough" for home healthcare services—even though the rule was probably illegal under a provision of the act requiring eligibility standards to be reasonable.

In another series of decisions the Supreme Court has rendered seniors more vulnerable to abuse in nursing homes by interpreting the eighty-year-old Federal Arbitration Act as a nursing-home tool to force seniors, consumers, workers and others to sign away their right to go to court. The act was intended to help businesses resolve contract disputes voluntarily, but now it is being used primarily to block consumer, investor and other class-action suits. Instead of having a judicial hearing before an impartial judge, seniors must have their cases heard by an industry-controlled arbitrator that is tilted against consumers, forces families to travel hundreds of miles, hides abuses from the public eye and strictly limits damages. This past June, David Kurth testified at a Senate hearing that his father died of infected bedsores in a Wisconsin nursing home. When the family sued, the owner of the home used a boilerplate arbitration clause in its admission agreement to force the case out of court and into industry-controlled arbitration.

Harper Jean Tobin is a staff attorney for the Herbert Semmel Federal Rights Project of the National Senior Citizens Law Center.

Debtor Nation

by ROBERT M. LAWLESS

Americans owe \$13.1 trillion on their mortgages and credit cards. Through the unintended consequences of court decisions that interpret arcane banking laws passed decades ago, we have become a nation of consumer debtors. In *Marquette National Bank v. First of Omaha Corp.* (1978) the Supreme Court interpreted a Civil War-era banking law to permit national banks to operate under their home state laws even when they transact business in another state. A few states obligingly repealed their usury laws, and national banks rushed to locate their lending operations in those states. Because these banks could lend at whatever rates they wished, consumers whose low incomes previously precluded them from borrowing found large lines of credit available but often at exorbitant interest rates. Then, in a case from California, *Smiley v. Citibank* (1996), the Supreme Court held that a bank could charge debtors whatever fee was allowed by the state where the bank chose to locate its lending operation. Naturally, banks picked a state that did not regulate credit card fees. After

Smiley, credit card fees became an important profit source. Those customers who always paid late were the most profitable customers, and lenders welcomed them.

Some states tried to protect their citizens against bank abuses, but in *Watters v. Wachovia Bank* (2007) the Supreme Court upheld the Office of the Comptroller of the Currency's efforts to displace state consumer protection laws that would otherwise apply to national banks. The Court's decision leaves the OCC, an agency considered a patsy of the industry it purports to regulate, as the sole protector of consumer interests against national banks.

Robert M. Lawless is a professor of law and Galowich-Huizenga Faculty Scholar at the University of Illinois College of Law.

Hard Knocks in the Workplace

by ERIC SCHNAPPER

Supreme Court decisions have made federal laws protecting the rights of workers a dead letter, and employers know they can violate them almost with impunity. The most recent such case involved Lilly Ledbetter, who worked for Goodyear Tire and Rubber from 1979 through 1998. During those years, Goodyear paid her less than her male counterparts. Invoking the prohibition against gender wage discrimination in the 1964 Civil Rights Act, she sued for back pay. The Court, by a 5-to-4 majority, ruled that she was entitled to absolutely nothing because she hadn't complained to the Equal Employment Opportunity Commission within 180 days of the first discriminatory act—even though she had no way of knowing what her male colleagues were being paid.

The Court has also narrowly interpreted the federal Employee Retirement Income Security Act (ERISA). Thus, if an HMO improperly denies a patient coverage of a particular medical procedure or a hospital stay, under ERISA the patient must either pay for the procedure and then sue for reimbursement—a financial impossibility for most workers—or get a lawyer and seek an emergency court order forcing the HMO to provide the benefit. Both remedies are wholly impracticable for most workers, a fact that HMO officials understand all too well.

As a result of recent Supreme Court decisions expanding states' immunity to lawsuits, 4.7 million employees of state governments have lost even the possibility of enforcing their rights under important federal laws. These include the Fair Labor Standards Act, governing minimum wages and overtime; the Age Discrimination in Employment Act; and the Americans With Disabilities Act. In addition, the Supreme Court has ruled that undocumented workers, who are entitled to many of the rights of US citizens, may not collect back pay if they have been illegally fired for joining a union, resisting sexual harassment, complaining about discrimination or for receiving less than the minimum wage. The decision, *Hoffman Plastic Compounds v. NLRB* (2002), encourages employers to hire undocumented workers, since the employers can violate the rights of these workers with impunity.

Eric Schnapper is a professor of law at the University of Washington School of Law.

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Carolina at Chapel Hill. He has won several teaching awards, including the Bowman and Gordon Gray Award for Excellence in Teaching. Professor Ehrman has written or edited 17 books, including the recent bestseller *Misquoting Jesus*.

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When the Gloves Come Off

New streams of lies are being pumped into the political bloodstream from the campaign trail.

by JONATHAN SCHELL

Reality is that which, when you don't believe in it, doesn't go away.
—Peter Viereck, poet and conservative thinker

*We had fed the heart on fantasies,
The heart's grown brutal from the fare* —W.B. Yeats

"Every tree in the forest will fall," said James McCord, the Watergate conspirator, as he prepared to blow the lid off the cover-up of the scandal, leading to the forced midterm resignation of President Nixon. The phrase comes to mind as one surveys the condition of the United States today. The country's military power is evaporating in failing ground wars in two pulverized, impoverished countries, leaving its recent pretensions to global imperial grandeur in ashes. Its economic power is crumbling daily as its banking system collapses and its instruments of credit seize up in what Federal Reserve chair Ben Bernanke has told Congress may be a "heart attack." (To which Pope Benedict has helpfully added that the world's financial system is built "on sand," explaining that "only the word of God is the foundation of all reality.") Its constitutional foundations have been weakened to the breaking point by a lawless executive branch and a supine Congress. Its moral authority has been compromised by military aggression and the institution of torture. Its ecological underpinnings (which it of course shares with the rest of the world) are being put at risk by global warming and the entire panoply of harms that the overgrown human enterprise is inflicting on the natural order. (On October 6 a study by the International Union for the Conservation of Nature reported that almost a quarter of mammalian species are now at risk of extinction.) "Change," indeed!—not the kind "we can believe in" or even the kind we "need" that Barack Obama promises but the kind that bears down upon you like a Category 5 hurricane, whether you believe in it or not. Not change but salvage—and salvation—are the need of the hour: rescue we can believe in.

In combination, these crises form a matrix, a kind of tightening steel net, that will condition and confine all future decision-making. Any one of them could easily prove more than a match for the powers of the next president. Yet there is a choice that overlaps and connects all the others and in a sense stands before them: deciding whether the United States, until now surrounded by a deep fog of illusions, will discipline itself to perceive and deal with the world as it actually is or, taking leave of its collective senses once and for all, will make the final plunge into a world of enticing fantasy. That is the most immediate question placed before the voters in the election that is upon us.

Jonathan Schell is the Harold Willens Peace Fellow at The Nation Institute. His most recent book is The Seventh Decade: The New Shape of Nuclear Danger.



TIM ROBINSON

Trust is the lifeblood of a democratic politics, just as faith and credit are the lifeblood of market economics. Each can be sustained in defiance of reality: a people can place its trust in demagogues, investors can bet their money on worthless assets. But only for a while. A day must come when the "pitiless crowbar of events" (Aleksandr Solzhenitsyn) breaks through the wall. That day has arrived. When, as now, the market system comes to the government begging for rescue, economic credit and political trust are fused. Acknowledging reality will not in itself end the wars, put money back in the banks, lower the price of energy, repair the Constitution or restore the damaged web of life, but it is a necessary condition for addressing any of this work.

Little Facts

It may seem a bit strange, as if in the midst of a ferocious political fight we were suddenly invited to turn ourselves into a tribe of philosophers and try to mount a defense of something as vague as "reality" per se; yet the effort seems required in the face of not just a torrent of deceptions but a multiform insurrection, backed by a tremendous machinery of obfuscation against the very facticity of the world. The appeal of systems of illusion is known to every student of totalitarianism. A fictional world can offer temporary emotional and intellectual comforts that the startling, barbed, always unfamiliar texture of real events cannot supply. The United States is not yet enclosed in the phantasmal world of totalitarianism, but it may be knocking at the gates.

The shock troops of deception are certainly Senator John

What secret does Obama know that could sink McCain like a stone – *if he wasn't afraid to use it?*

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Why, then, haven't you heard about them from NBC, CBS, CNN, *The New York Times*, *Washington Post*, or any other corporate media? They've had the information as long as we have. Even more curious – *why isn't Obama's team trumpeting these revelations from the rooftops?*

The answers are on "**McCain's Big Secret**," a startling new CD produced by WBAI investigative reporter Rebecca Myles, and featuring *The Nation's* own **Alexander Cockburn**, with Jeffrey St.Clair, Doug Valentine and Brendan McQuade.

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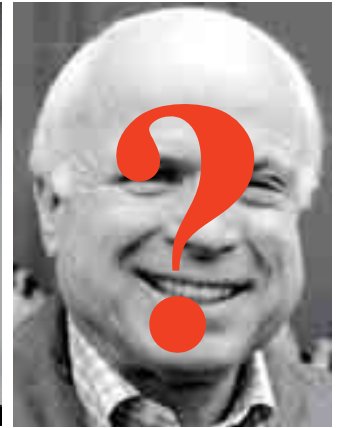
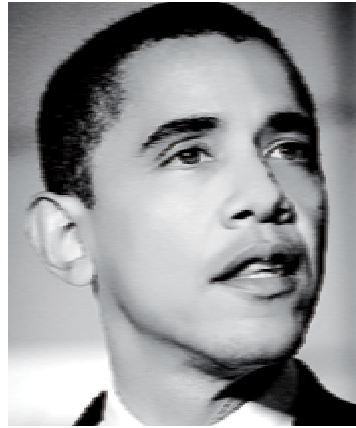
■ **Secret # 2 – Even if McCain were actually elected President** (bite your tongue), the 14th Amendment may bar him from ever taking the oath of office. **Why? It's on the CD.**

■ **Secret # 3 – U.S. POWs imprisoned with McCain** have come forward to debunk the now-legendary saga of McCain as "War Hero." **It's on the CD.**

■ **Secret # 4 – Cindy McCain sought medical attention** on at least three separate occasions for injuries consistent with physical abuse – i.e., bruises, contusions, and a black eye. What explanation did she give to medical personnel for her injuries? **It's on the CD.**

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McCain and his campaign. Their willful, incessantly reiterated distractions, contradictions, distortions and gross lies have by now been widely noted; but their variety and form deserve comment. Several kinds of lies must be distinguished. Some are the traditional kind—lies of concealment regarding matters whose truth is at first widely unknown, as when McCain ads claimed that Obama wanted to teach kindergartners “about sex before learning to read.” Others are brazen lies, meaning lies about matters whose truth is already well known, as when McCain’s ads charge Obama with imposing “skyrocketing taxes”—whereas anyone who cares to turn on a television can learn that Obama plans to raise taxes only for those who make more than \$250,000 a year. His running mate, Alaska Governor Sarah Palin, told a brazen lie when she stated that the recently concluded ethics investigation of her attempts to pressure officials into dismissing her former brother-in-law Michael Wooten from his job as an Alaska State Trooper found “no unlawful or unethical activity on my part,” adding, “there was no abuse of authority at all in trying to get Officer Wooten fired.” In actuality, the report states that she violated the Alaska Executive Branch Ethics Act by trying to get Wooten fired.

Yet other lies, more brazen still, are ones that immediately contradict one’s own statements, as when McCain charged that “Obama...infused unnecessary partisanship into the process” of the economic bailout and then continued to say “now is not the time to fix the blame, it’s time to fix the problem.” A brazen lie is, in one way, more innocent than a lie of concealment—its falsity is immediately visible—but in another way it is more subversive of truth. Whereas in the case of the lie of concealment the truth can still surface to puncture the deception, in the brazen lie the bolt of truth has already been shot, and no remedy from that quarter is available. The logical next step down this path is what the Republican Party proffers: the roundhouse attack on organizations of information in general, now styled “the media filter.” (Even education, another prime source of factual truth, has been cast in disrepute as the province of “the East Coast elite.” So strong is this sentiment that Obama’s biographical video at the Democratic convention omitted his time at Columbia University and Harvard Law School, where he became editor of its *Law Review*.) To the extent that such efforts succeed, the body of lies is free to grow without check from facts. The political “base,” thus immunized, is free to believe anything it likes for as long as it likes, to make things up as it goes along.

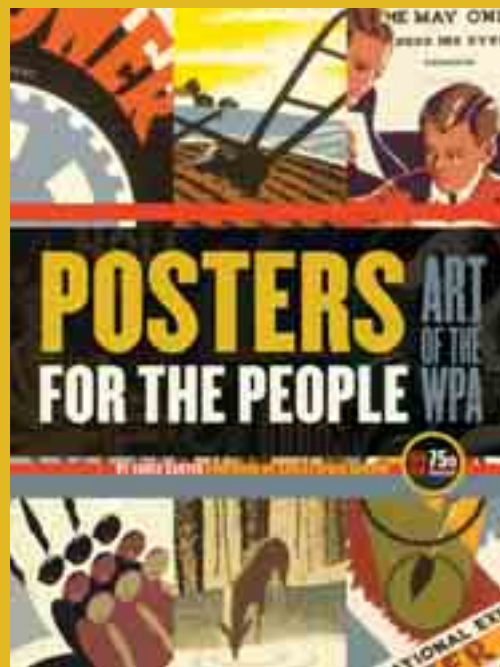
A further and more comprehensive step down the same road is the open defense of deception. Thus, to brazen lying is added the brazen advocacy of lying. Republican strategist John Feehery entered this zone when he said that information damaging to vice presidential candidate Sarah Palin was unimportant “because there’s a bigger truth out there and the bigger truths are she’s new, she’s popular in Alaska and she is an insurgent.” He crucially added, “As long as those are out there, these little facts don’t really matter.” Where little facts don’t matter, big lies can prosper. However, most startling—though wholly of a piece with the foregoing—is the open articulation and defense of a mode of campaigning in which not just the facts (true statements about reality) but reality is downgraded in

principle, as if not merely reports about what is happening in the world but the world itself—the actuality of people’s experience and lives—can be thrust aside in favor of fantasy. In this category was the famous statement by McCain’s campaign manager, Rick Davis, that the campaign would no longer be about the “issues” (people’s jobs, their health, war and peace, etc.) but about “a composite view of what people take away from these candidates.” That was followed by McCain adviser Greg Strimple’s statement that “We are looking forward to turning a page on this financial crisis and getting back to discussing Mr. Obama’s aggressively liberal record and how he will be too risky for Americans.” Is a global economic crisis a “page” that can simply be “turned”?

It would be a great mistake, though, to imagine that the quarrel between the Democrats and the Republicans is a fight between the forces of light and the forces of darkness. The Democrats have allowed themselves to be drawn deeply into the shadow world. The choice between the parties is too often a choice between the greater illusion and the lesser. In this fight, as in the fights to preserve the Constitution and the law, the Republicans are the party of usurpation, the Democrats of abdication. (Together they are well matched, and make a deadly pair.) Indeed, the full capture of the political realm by the propaganda arts has been bipartisan. The iron triangle of pollsters, paid political advisers and consultants has formed an independent realm of images in which, by common agreement, the prime duties of a candidate are such matters as “defining” the opponent before he defines you, seizing “control of the agenda” and framing a “message” or, more grandiose, a “narrative”—all of which are aimed, whether moving through a land of fact or fiction (or some of both), at winning office.

Meanwhile, the pundit class, unsatisfied with a mere repertorial role yet fearful of expressing opinion outright, presides over a vast realm of “analysis,” in which the commentators, sitting behind rows of laptop computers in overdesigned television studios, all too often become so many self-appointed bipartisan advisers to both campaigns—equal-opportunity spin artists. There, the questions asked are likely to be on the order of “Did Sarah Palin beat the low expectations we had set for her in the debate?” or “What must Obama do to pass the ‘commander in chief test’?” or “Will McCain’s attempt to energize his base by choosing Sarah Palin alienate independent voters?” or “How can Barack Obama appeal to lower-class white women who voted for Hillary?” They too rarely ask: “Is the United States really heading for ‘victory’ in the Iraq War?” (as the GOP boldly declares) or “Will the candidates’ plans for bailing out the financial system really work?” or “Is a policy of torture morally acceptable?” The upshot is that in the most widely attended media (mostly television), the plight of the United States and the role of a new president in dealing with it must be discussed largely in technical terms. It’s as if a fire department, arriving at a burning house, instead of rushing in to save the sleeping children and putting out the blaze were restricted, like so many weather forecasters, to analyzing wind currents, wondering when the second floor will burst into flame or when the neighbor’s house will be ignited.

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Strong and Wrong

In no area has the Democratic surrender—at once to illusion and the disastrous unleashing of military force—been more abject than in national security policy. The pattern between the two parties was set more than half a century ago, when Republican Senator Joe McCarthy charged that the Democratic administration of Harry Truman had “lost” China and set the stage for the Democrats, fearful of losing another country, to make their catastrophic commitment to the Vietnam War. The keynote of the current round of abdication was certainly the Congressional vote to support the Authorization for Use of Military Force Against Iraq. Accused of losing one war, many Democrats felt compelled, some no doubt sincerely but others for a variety of pretexts (“I was voting to take the issue to the UN!”), to sign up for the other one. (Let’s try to imagine for a moment how much better a country the United States would be today if Congress had turned down the Vietnam and Iraq wars.) Such have been the terms of the Democrats’ enduring dilemma in the face of America’s disastrous wars. If they oppose the war, they look weak in the face of the enemy. If, in order to look “tough,” they support the war, they look—and are—weak in the face of the Republicans. Or if, like John Kerry in 2004 in regard to Iraq, they support the war and then oppose it, they look like—and are—flip-floppers. Every which way, they look weak. Chronically accused of “softness” on something or other (in the old days Communism, today terrorism), they really are soft in their failure to stand up to their Republican opponents bent on misbegotten wars.

Bill Clinton articulated the Democrats’ normally unspoken credo when he said, “When people are feeling insecure, they’d rather have someone who is strong and wrong rather than someone who is weak and right.” (The difference is that the Democrats are likely to know in their bones that the war is wrong, whereas the Republicans do not.) Barack Obama has not escaped the dilemma, which persists into this sixth year of the Iraq War. From the start of his campaign, he has advocated an increase in the American military of 92,000 additional troops. An opponent of the war in Iraq from the beginning, he now calls for an increase of two brigades in Afghanistan. It’s hard not to believe that the logic here is that if you want to draw down forces in war A (Iraq), you must find a war B (Afghanistan) to step up. Does Obama truly imagine that further militarization of that conflict will lead to its resolution? Isn’t it more likely that the current deterioration of the military effort will continue? And if so, isn’t there a grave risk that Afghanistan will become Obama’s war in the way that Iraq became Bush’s war, and with a similar potential to destroy Obama’s presidency? And wouldn’t it be better to join Afghan’s president, Hamid Karzai, who is trying to enlist Saudi Arabia to start negotiations with the Taliban on a political settlement?

At the same time, Obama has sought to outflank McCain on the tough side by calling for hot pursuit of the Taliban into Pakistan, something George Bush is in fact doing. The practice has already led to an exchange of fire with Pakistani troops and looks like the high road to an expanded war. Nor is Obama’s promise of withdrawal from Iraq by any means ironclad. After sixteen months, he would leave behind a force of unspecified

size devoted to attacking terrorists, training Iraqi forces and protecting American installations. But is this three-pronged mission so very different from the current one? And if Iraq begins to slide toward civil war, as seems all too possible, what will Obama do then? And if that prospect is real, shouldn’t he acquaint the public with it now? He has said that he would “reserve the right to pause a withdrawal.” But in that case, will the Iraq war, too, become his war? In short, there is good reason to fear that in his eagerness to avoid the appearance of risking “losing” Afghanistan, Pakistan and/or Iraq, he has laid several traps for himself. If he must one day decide to withdraw even in the face of collapse in any or all of those countries, the Republicans will not fail to remind him of his campaign promises of success, and his presidency will be in danger. They’re already saying he will snatch defeat from the jaws of victory in Iraq. Such is the likely price that this Democrat risks for succumbing to illusion in matters of war and peace and failing to acknowledge the full cost that will probably have to be paid for America’s military misadventures.

Taking the Gloves Off

As the election entered its final month, the McCain campaign, in one of the more sudden twists in its ever shifting strategy, settled on a phrase to describe what it would do next. It would “take the gloves off,” as Governor Palin said to William Kristol of the *New York Times*. That is, as she put it on the stump, “there is a time when it’s necessary to take the gloves off, and that time is right now.” Or as she further put it, approvingly quoting a campaign staffer’s comments, “OK, let’s look at it this way, Sarah: the gloves are off, the heels are on. Let’s get to work!” The gloves-off expression has an unmistakable echo in recent history. It was the phrase of choice to describe the Bush administration’s programs of torture and abuse. For example, Cofer Black, director of the CIA’s counterterrorism center until May 2002, stated to a Congressional hearing in September of that year, “All I want to say is that there was ‘before’ 9/11 and ‘after’ 9/11. After 9/11 the gloves come off.” He turned out to be referring to the CIA’s infamous global program for “disappearing” and torturing detainees in a system of secret prisons, some run by the CIA and some by foreign governments. One thing led to another, and the phrase, together with the torture it opaquely declared, turned out to have a life of its own. In Iraq, by August 2003, a captain in military intelligence had made it known that in the cells of the prison at Abu Ghraib “the gloves are coming off gentlemen regarding these detainees,” for “Col. Boltz has made it clear that we want these individuals broken.” Soon, the photographs of the horrors of Abu Ghraib flooded the world.

The supposed aim of abusing detainees was obtaining information. But the record shows that misinformation thus obtained was far more important for the course of events than was anything actually learned. As recounted in Jane Mayer’s outstanding recent book *The Dark Side*, in late 2001, Pakistani intelligence captured Ibn al-Shaykh al-Libi, a confederate of Osama bin Laden. Interrogated without abuse by the FBI, he proved an invaluable source of information on Al Qaeda plots but denied knowledge of any connection between Al Qaeda and Saddam Hussein or of Iraqi programs of weapons of mass destruction. But at that time there was a keen demand in the

highest echelons of the Bush administration to produce just such evidence in order to be able to justify the invasion before world opinion. Al-Libi was taken into CIA custody and sent to Egypt, where the most revolting forms of torture are routinely practiced. "You're going to Egypt!" a CIA officer, in one of the basest moments of American history, screamed at al-Libi. "And while you're there, I'm going to find your mother and fuck her!" In Egypt he was imprisoned in a tiny cage for more than eighty hours and viciously beaten. Al-Libi then discovered that Saddam did indeed have ties to Al Qaeda and programs for weapons of mass destruction. According to a report by the Senate Select Committee in 2006, al-Libi "lied...to avoid torture." Or as he put it to the FBI, "They were killing me. I had to tell them something."

Al-Libi's new testimony quickly flowed up the chain of command to the White House, where it was piped into the vice president's office. From there it made its way to no less august a forum than the United Nations Security Council, where Secretary of State Colin Powell cited al-Libi's torture-induced lies (though without naming him) in his dramatic presentation to the world of the American reasons for invading Iraq. ("A senior terrorist operative," he said, had told interrogators that Saddam had trained two Al Qaeda members in the use of "chemical and biological weapons.") Behind Powell at the UN sat CIA director George Tenet. Behind *him*, invisible in the shadows of the secret prison system, stood the American-sponsored Egyptian torturers with their instruments of agony.

Yeats understood that fantasy brutalizes the heart. The CIA's torturers demonstrated that the brutalized heart in turn nourishes fantasy. A war was planned. Illusions to justify it were wanted. Torture was one of the chosen means. Here was the destination to which the "strong and wrong" policy finally led. The consequences were of high moment: thousands of American deaths, hundreds of thousands of Iraqi deaths, one country smashed, another dishonored. Now in the last weeks of the presidential campaign "the gloves are off" again, fantasy and brutality are mixing in another context and new streams of lies are being pumped into the public bloodstream from the campaign trail. What will the price be this time? More mistaken wars, with their lawlessness, torture and civilian deaths? More immiseration through voodoo economics? Where will the cross-fertilization of delusion and degradation next lead? What will Sarah Palin do with her high heels and her ungloved hands, and to whom? Already a mood of "anger," even "rage," has developed at McCain-Palin rallies, where racial slurs and shouts of "treason" greet mentions of Obama.

The Thin Man

Looking over the wreckage of American policy, it's possible to suppose that the United States of October 2008 is going through what Russia went through in August 1991, the loss of empire. But a better analogy might be the Suez crisis of 1956, when England and France (with assistance from Israel) sought to reassert their imperial roles by invading Egypt, which had just nationalized the Suez Canal. Suez did not so much destroy the British and French empires as reveal that they were already gone. At the time, President Eisenhower exclaimed to Britain's Prime Minister Eden, "An-

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thony, have you gone out of your mind?”—a question that many people would like to put to the United States just about now. But whereas the Soviet Union simply disappeared, Britain and France of course survived as prosperous middle-power nations. The end of empire did not spell the end of the state. The United States seems likely to remain a country of immense strengths—economic, political, even military—that will survive the collapse of its imperial delusions. Above all, its constitutional system, ravaged yet still standing, offers a means of regeneration of a kind that few other countries possess.

Cyril Connolly once said that inside every fat man there is a thin man struggling to get out. Is Barack Obama (the “skinny guy with a funny name,” as he says) that thin man for the United States? Does he stand for the lean, disenthralled, awake America that needs to escape from within the obese, supersized, bewildered giant whose military forces crash through the world, whose ruined credit is dragging down the world economy, whose effluents are choking its own and the world’s atmosphere, whose superannuated nuclear arsenal (together with that of Russia) even today threatens the species with annihilation? Obama is an almost preternaturally gifted political

man—a kind of Mozart of politics. He seems to possess many elements of stature, even of greatness. His reputation for decency is unblemished. He appears to be remarkably unideological, a true pragmatist—a quality much to be prized in a time when events outrace foresight. He is intellectually agile. He is a writer and speaker of eloquence and originality. He inhabits a degraded public realm with grace. He is an outstanding judge of people and circumstances, if his memoir *Dreams From My Father* is any indication. (Note that the word “from” in the title, instead of the expected “of,” turns a cliché phrase into an interesting one.) He is a good manager—his campaign has been a marvel of skillful administration. But still to be proven are the clarity of his vision and the strength—the “audacity,” to use his word—without which his fine qualities will be of little help. Placing himself at the center of the swamp that our political life has become, he has breathed deeply of the narcotic fumes that pervade it. Many of his campaign promises will burden a presidency already destined to have burdens to spare. But his election is a necessity for any decent future for the United States. The fog might begin to lift. It would be a beginning. ■

Exchange

(continued from page 2)

rationale for demonizing and punishing Vietnam.

Normalization of relations with the SRV in 1994 seemed at last to end a grotesque “debate” that was driven by charges issuing from the lunatic fringe. Now Schanberg wants to revisit the issue, a proposal that will find no second anywhere in the scholarly literature and would be a waste of time for everyone who cares about the Vietnam War and its sequels or who wants a critical examination of McCain’s qualifications for the presidency. Why did *The Nation* publish this garbage?

DAVID HUNT

Schanberg Replies

NEW YORK CITY

There is only one myth in this discussion. It is the myth that ideologues like H. Bruce Franklin created with their fact-starved claims that all the US prisoners were returned by Hanoi after the peace accords in 1973. Franklin may even have, in the beginning, allowed himself to believe his wishful narrative. But by now, as more and more evidence has emerged despite the still intense government cover-up, Franklin must know better. The desperate tone of his letter gives him away. He slings mud from his first sentence onward. He calls my article a “thoroughly discredited right-wing fantasy.” Anyone who knows my work will have a big laugh over

that right-winger label.

What really happened at the Paris peace talks was that President Nixon, intent on getting out of the Vietnam morass by any means possible but lacking any leverage at the peace talks with Hanoi, agreed to sign the accords, as the North Vietnamese demanded, before being shown the list of prisoners they were returning. The list of 591 men was hundreds short of the prisoner population reported by United States intelligence.

Those are some of the facts that Franklin apparently chooses not to believe. Indeed, there are no facts at all in his letter. He says, ridiculously, that he alone owns the franchise on the POW story and therefore will not deign to address any of the detailed evidence in my 8,000-word investigative article. It is clear he cannot refute it. I think I can understand his rage. His book, which he touts as the definitive work that cannot be challenged, is what he built his academic reputation on. What kind of academic contends that there is no truth but his?

Whatever his worries, his pompous letter is a foolish way to deal with them. He even throws in a weird accusation that I failed to show up to debate him, thereby letting down the “hundreds” in the audience. Mr. Franklin, please send me a copy of any message from me agreeing to any debate—that will solve this enigma.

I thank Christopher May for reading my piece with no ideological filter. He

understood that my article is not about who was right or wrong about the Vietnam War. It is about the missing men and the suppression of their files and John McCain’s central role in burying those files. About McCain’s role, May writes: “It seems inexplicable behavior on the part of a man who puts such stock in honor and who [has] promised...to take care of veterans.” Exactly.

About John McAuliff and David Hunt, I would hope they could remove any filters for an hour and read the full version of my article at nationinstitute.org, which is more detailed and has additional documentary evidence.

McAuliff says it was “extremely disturbing” that *The Nation* published my article. Hunt says he was “horrified” and calls the piece “garbage.” Franklin says he was “profoundly shocked.” (So much for the First Amendment.) There’s no reason for loaded, hot-tongue language like that—unless you think your myth might be coming apart.

Finally, I pose a challenge and an appeal to people who share these critics’ views. It’s obvious that the best way to get to the bottom of the POW story is to press our government to release all the POW files that have been suppressed for thirty-five years. Why haven’t the naysayers campaigned for this? Don’t the people who deny there were abandoned POWs want to know what’s in those files? What are they afraid of?

SYDNEY SCHANBERG

Books & the Arts.



Falluja, November 13, 2004

ANJA NIEDRINGHAUS/ASSOCIATED PRESS

Collateral Damage

by CHRIS TOENSING

In the screen adaptation of Anthony Swofford's *Jarhead*, about a crack sniper unit deployed to the Persian Gulf in 1991, marines at movie night joyously sing along with the "Ride of the Valkyries" soundtrack as they watch napalm-bearing helicopters swoop down over rice paddies in *Apocalypse Now*. "There is talk that many Vietnam films are antiwar," writes Swofford in the greatly superior book, but "filmic images of death and carnage are pornography for the military man." Killing is what the snipers have shed sweat and tears to do, and they do not want to be cheated of the opportunity. HBO's summer offering about the 2003 invasion of Iraq, *Generation Kill*, features young marines with similarly itchy trigger fingers.

For most soldiers—and Swofford is open

about the fact that he saw very little combat—the *frisson* of drawing blood, naturally, does not last. In *The Forever War*, Dexter Filkins finds Capt. Sal Aguilar gazing upon a field strewn with dead Iraqi soldiers who had vainly resisted the initial US drive to Baghdad. "When you're training for this, you joke about it, you can't wait for the real thing. Then when you see it, when you see the real thing, you never want to see it again," Aguilar says. Filkins's first encounters with gore make it clear that he concurs.

The Forever War is no ordinary reporter's book. Filkins, who was in Iraq for the *New York Times* from 2003 to 2006 and previously in Afghanistan for several years, has comprehensively recast the events that he wrote about in the newspaper—as well as chronicling some personal experiences that haven't seen print before—to better convey what it was like to be there. The chapters are discrete vignettes organized in only loose chronological order. For this unconventional format,

The Forever War

By Dexter Filkins.
Knopf. 368 pp. \$25.

War Journal

My Five Years in Iraq.
By Richard Engel.
Simon & Schuster. 392 pp. \$28.

Waiting for an Ordinary Day

The Unraveling of Life in Iraq.
By Farnaz Fassihi.
PublicAffairs. 291 pp. \$26.

and for its literary merit, *The Forever War* has been compared—and not at all outrageously—to Michael Herr's *Dispatches*.

Filkins evokes the terror and terrible thrill of battle better than any of his colleagues who have so numerously crammed their notebooks between hard covers. Not only does he display a reporter's sharp eye for detail, both grisly and mundane; he captures the sights and sounds of combat with consid-

Chris Toensing is editor of Middle East Report, published by the Middle East Research and Information Project.

erable skill, in spare but powerful prose. His account of the November 2004 US assault on Falluja, wherein militants' shouts of "God is great!" are drowned out by AC/DC singer Brian Johnson's screech of "Satan get ya!" from the marines' massive loudspeakers, is unforgettable for its craft. Equally fluid and affecting is his narration of an episode days later, when he and his photographer Ashley Gilbertson, looking for a good camera angle, are escorted up the stairs of a Falluja minaret by Lance Cpl. William Miller, only for Miller to be shot dead by a waiting fighter. "That's what happens in war," philosophizes the platoon sergeant, seeing Filkins and Gilbertson's grief. "Yeah, it was your fault," Miller's lieutenant tells the journalists later.

Reporters who embed in Iraq often make no secret of the understandable debt they feel to the grunts around them: half gratitude at being shielded from opposing fire, half guilt at being a burden on the foulmouthed, stouthearted working-class enlistees. Filkins

have to fight them over here—disquiets Engel more and more as the war drags on. "By 2006, it was hard for a soldier trying to restrain Sunni and Shiite militias in Baghdad from drilling holes in each other to see how he was making his mother or sister any safer back in Texas or Florida." The recent drop in violence has made embedded journalists feel better about the price the soldiers have paid, though Engel, for one, is still wary. Asked last spring by PBS talk-show host Charlie Rose what the next stage of the war will bring, he concluded his comments with the warning that "it would be a very devastating blow" to the troops if the gains of the surge were to erode, as if the ultimate gauge of the Iraq adventure were the morale of the US military.

To point out such morale minding is not to disparage Engel's or Filkins's journalistic integrity or resourcefulness, though it must be said that Filkins once earned the quiet reproach of peers, and a tongue lashing from his editors, for carrying a gun on assignment. It is merely to appreciate the genius of the embedding concept, which Pentagon culture warriors must surely have calculated would propagate this subtle but visceral attachment to "the mission" among the press corps—and, through that instrument, among the public.

Yet Filkins's and Engel's identification with the troops' Sisyphean heroism sits uneasily within the overall narratives of political failure that their books unfurl. Back when the Bush administration claimed to be engaged in top-to-bottom reconstruction of the Iraqi economy and polity, Filkins notes, Iraqis lied to cadge the largesse of cash-laden US officers, but "the worst lies were the ones the Americans told themselves." Engel blows the whistle on the network executives who bowed to right-wing pressure, echoed by the US Embassy's public affairs officers, to track down the good news in Iraq, even as the country descended into mayhem. He also offers fresh tidbits of evidence of how the Bush administration tried to schedule the ballyhooed milestones in Iraq's post-Saddam political transition for American consumption. In the fall of 2006, as an Iraqi court wended its way toward the foregone conclusion of Saddam's execution, Engel heard a US diplomat say, "We're doing everything we can to make sure they're done by the midterm elections." Then the diplomat caught himself. "But don't report that.... This is entirely an Iraqi process." Saddam was eventually hanged on December 29, 2006,

the news breaking at 10:15 PM Eastern Standard Time, far too late to buoy the Republicans' electoral hopes but not too late for the NBC anchor to interrupt *Law & Order*.

Lawlessness and disorder, indeed, are a central theme of these latest missives from Baghdad. The search for good news in Iraq was rendered absurd, first and foremost, by the extraordinary security measures that journalists were forced to adopt merely to feel safe after work, let alone cover happenings in the field. Farnaz Fassihi, who first reported from Iraq in October 2002 and then covered the war for the *Wall Street Journal* from 2003 to 2006, chronicles these measures memorably. Her *Waiting for an Ordinary Day* is, in essence, a book-length version of an e-mail she sent to family and friends in September 2004 that opened with the complaint that "being a foreign correspondent in Baghdad these days is like being under virtual house arrest." The e-mail soon went viral and brought Fassihi unintended fame, not only for revealing the dangers of her job but for contradicting the Bush administration's continual talk of corners about to be turned. As numerous strangers asked her, "Is it really that bad in Iraq? We had no idea."

Fassihi, like most in the Iranian diaspora in the United States, is deeply critical of what clerical rule has wrought in Iran, and so she did not share the equanimity of her Western female colleagues at having to don a black abaya to leave the house without fear of harassment or worse. But the strictures on women's freedom of dress and movement were not the worst of it. By 2004 the ambient mayhem meant it was unsafe for anyone, Iraqi or non-Iraqi, male or female, to roam about the city. Like all other major news organizations, the *Wall Street Journal* employed security contractors who imposed strict rules. Fassihi was driven to her rare in-person interviews accompanied by men with guns; on most occasions, she simply relied on Iraqi staffers to act as stringers, calling in details that she would then write up.

After sending her famous e-mail, Fassihi and her journalist housemates were compelled by a car bombing outside their house to decamp inside the Green Zone, to the once opulent Rasheed Hotel. There she was to refer to herself by a number, 315. She was never to tell anyone in the hotel, and especially not the Iraqi staff, who she was. She was not to leave identifying papers in her room or use her satellite phone. The maid was not to change the towels except with a non-Iraqi watching. These precautions were dictated by the rash of kidnappings, ending in ransom or gruesome death, of journalists, diplomats, businessmen and even antiwar activists by shadowy gangs linked to Sunni

Fassihi vividly shows how the war has damaged Iraq's social fabric and dislodged the soul.

shows the requisite support for the troops and, more consequential, for the idea that their sacrifices should mean something. He evinces bewilderment, if not annoyance, at what he regards as insufficient Iraqi gratitude for what the troops endure. As he rides into the southern border town of Safwan on March 20, 2003, the residents look on "slack-jawed, gaping, uncomprehending," failing to cheer their liberators with gusto or to join in as American soldiers tear down posters of Saddam Hussein. Later, he curses at an Iraqi applauding at a burning US supply truck and the gravely wounded American on a stretcher nearby. But it is the experience of embedding with a combat unit in Falluja that cements his loyalties.

A similar concern for the troops permeates the stories of Richard Engel, a correspondent for NBC News, whose second book about Iraq, *War Journal*, appeared over the summer. Engel enters Iraq in February 2003, backing the invasion as "the start of a radical plan to redesign and improve the modern Middle East." This earnestness begins to fade by that Christmas, when he hears a general motivating the homesick soldiers under his command by asking them to imagine a terrorist bombing the malls where their loved ones are shopping for gifts. The ham-handed invocation of the flypaper theory—fight them over there so we don't

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Iraq, that the economy is in a nose dive, and that there is a (chillingly) real possibility that John McCain may become our next President. So we won't take it personally if you decide that the plight of a besieged community of artistic "exiles" on New York's Lower East Side isn't high on the list of "Worthy Causes" for which you are willing to dig down in your pocket.

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Arab guerrillas, Shiite Arab militias, Baathist conspirators, Al Qaeda in Mesopotamia, the criminal underworld and almost any combination thereof. And many of the kidnappings were indeed hard to explain in the absence of inside information. For too many Iraqis who worked with foreigners, particularly Westerners, the temptation of easy money or the threat of retribution was simply too much to withstand.

The greatest strength of these three books, and Engel's and Fassihi's in particular, lies in their vivid portrayal of the impact of the invasion and occupation on Iraqis, not only the toll of death and displacement but also the damage to the social fabric and the dislodging of the soul, which already bore the scars

Engel trades in the simplification that the US is caught in an age-old sectarian struggle in Iraq.

of Saddam's repressive regime and thirteen years of UN sanctions. Fassihi's translator Haqqi, a Sunni Arab and son of a Saddam-era ambassador, tests the patience of his Iranian-American boss with his dark mutterings against the poor Shiites poised to flex political muscles in the January 2005 elections. When the balloting rolls around, Haqqi puts aside his disdain for the exercise and pleads to be allowed to vote outside his district. That evening, however, he wraps his ink-stained finger in a Band-Aid, because to be seen with it uncovered in his Sunni neighborhood, where the elections were seen as a sham, might imperil his life. Another of Fassihi's Iraqi assistants flees to Damascus when his wife learns she is pregnant: "She is crying nonstop. She doesn't want to leave her family but she doesn't want to raise our child here either." Engel tells of a grocer who tells his daughter's abductors to keep her when she admits she has been raped; of Sunnis who removed the heads of Shiite neighbors in the southern Baghdad suburb of Dora with a band saw; and of his fixer Ali, who witnesses a Mahdi Army execution and remarks, "You know, and I shouldn't say this, but all this makes me hate Islam. It seems that the more you kill the more you go to heaven." The two men sit silenced by the enormity of what Ali, a pious Shiite who had never doubted his faith before, has said.

Fassihi, Engel and Filkins are less insightful about the political events and trends behind these searing tales of man's inhumanity to man. Filkins and Engel broadly reproduce what has long been the mainstream explanation of what went wrong in

Iraq: the troops were initially well received; the capital was looted and the Coalition Provisional Authority incompetently run, undermining Iraqi trust in the almighty United States; dethroned Baathists and disenfranchised Sunni Arabs mounted a rebellion, which was lent a vicious anti-Shiite edge by non-Iraqi Arab jihadis; Shiite religious parties, swept into office by an increasingly vocal clergy and enriched by Iranian funds, captured the security organs of the quasi state and abused them for sectarian reprisals; the country melted down into civil war; the troops, despite flagging support at home, persevered.

This story line, though incomplete, would be innocuous if the two reporters did not embellish it with nonsense. Engel sees effortlessly through the right-wing tripe that the war pits "Freedom Lovers" against "Freedom Haters," but in the same breath he re-

inforces the equally gross simplification that in Iraq "we are in the middle of an ancient power struggle" between the two main sects of Islam. Sectarian strife in the Middle East, while acute in the aftermath of the invasion, is not timeless, and in Iraq it cannot be separated from the legacies of British colonial intervention, pan-Arab nationalism, authoritarianism, the oil boom, the Iran-Iraq War, the 1991 Gulf War and the 1990–2003 UN sanctions—all modern historical phenomena that have little or nothing to do with religion and that Engel hardly mentions. Filkins, meanwhile, damages his credibility as an analyst with a chapter-long paean to "artful dodger" Ahmad Chalabi, who wins him over by listening to Vivaldi and pointing out the Marc Chagall paintings hanging in the Tehran Museum of Contemporary Art. The *New York Times* man gushes: "When I looked into Chalabi's eyes and saw the doors and mirrors opening and closing, I knew that I was seeing not just the essence of the man but of the country to which he'd returned. *L'état c'est lui*. Chalabi was Iraq." Filkins has since stated in interviews that he does not believe that Chalabi, who before the invasion had not been to Baghdad since 1958, is the man to unify Iraq. These lines therefore serve to anthropomorphize the qualities of Iraq and the Muslim world that Filkins finds inscrutable—and here, in classic Orientalist fashion, he is creating mystery where there need be none.

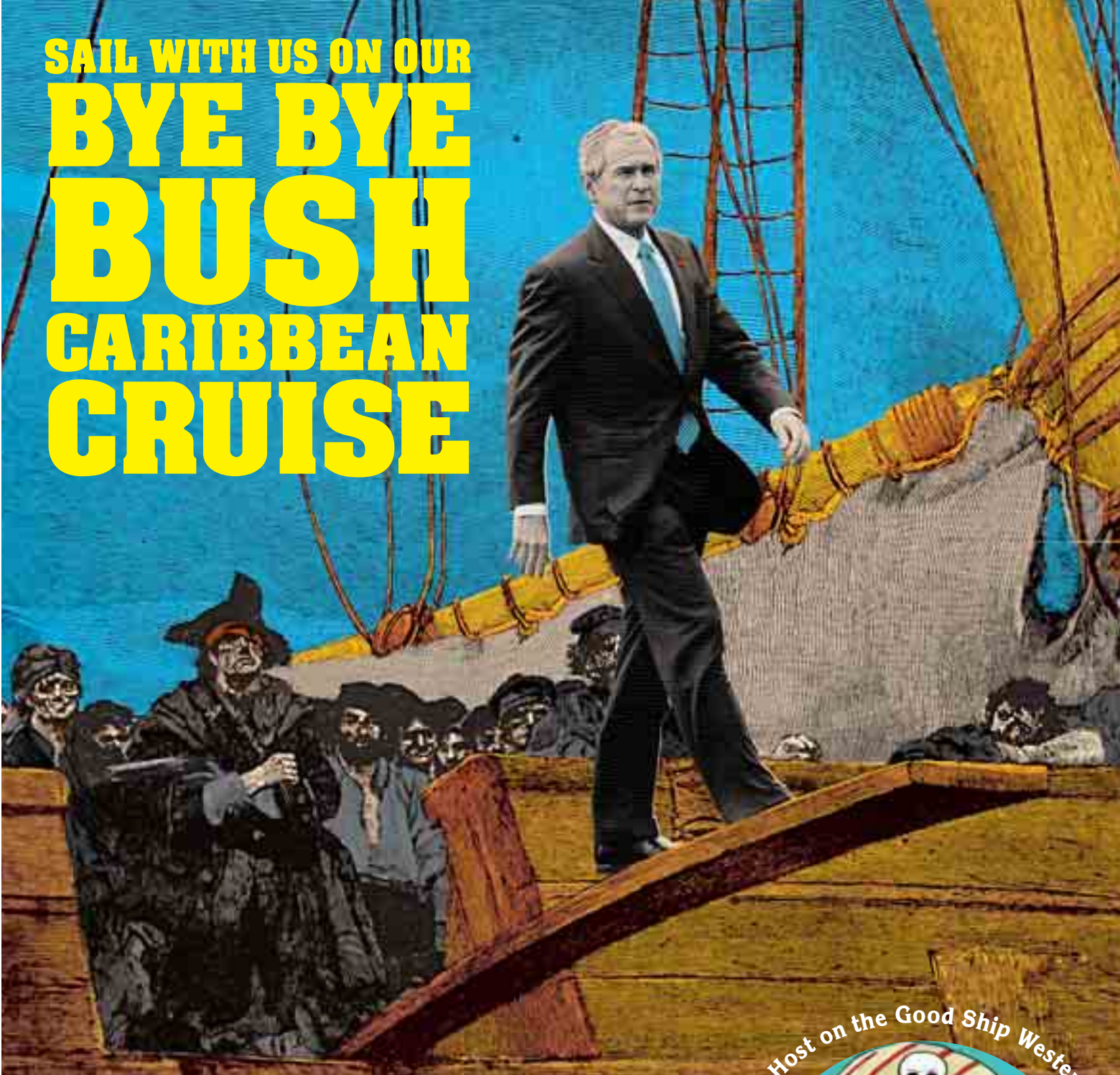
It is not difficult to understand why most Iraqis resent Chalabi, a scion of the pre-1958 monarchical order whose fabrications greased the skids for the deadliest and most disruptive of Iraq's three major wars since 1980, just as

most Iraqis distrust the Islamic Supreme Council of Iraq, whose members fought for Iran in the 1980s and sat out the sanctions era in relative comfort abroad. As Fassihi, in a chapter about the Iraq of 2002, puts it, "Almost unanimously Iraqis tell me that America will initially win the military war but will face a fierce resistance for establishing peace. The exiled opposition, with its varying agenda, will pull Iraq further apart." Popular dislike for America's Iraqi allies, plus the ordeal of Iraq under Saddam and sanctions, plus the emptiness of the *casus belli*, plus the incompetence of the Coalition Provisional Authority, plus the inevitable irritations of military occupation, together made the US enterprise in Iraq an exceedingly dubious proposition. In these easily assembled historical facts, and not in some undefined "essence," Filkins (and Engel, who far too readily lectures his readers about "how to deal with Arabs") might have looked for answers.

Though she is much better in this regard, Fassihi also occasionally slips into portraying Iraq as harder to understand than it is. Of the growing clout of Islamist women vis-à-vis their secular sisters, for instance, she notes that Iraq is unique because "the fight over women's rights is working in reverse." Fassihi's frame of reference is the Islamic Republic of Iran, where women activists, including self-described Islamic feminists, are indeed pushing to bring laws governing women's rights into greater conformity with liberal Western norms. But across the Arab world, and in state-secularist Turkey, Islamist women of the rising pious middle class are asserting themselves forcefully, the key difference with Iran being that in Iran, Islam is associated with the unpopular repressive state, whereas elsewhere the state is nominally secular and Islam is coded as oppositional. So it was, for the most part, in Saddam's Iraq. Iraq is unique for conditions that are, as it were, secular: to name a few, the tremendous stresses on families of brutal dictatorship and constant war, the implosion or flight under sanctions of the old professional middle class, the catastrophic slide in women's literacy in the 1990s and the ascendance of the devout middle class in the Shiite shrine cities after the fall of Saddam reopened them to mass pilgrimage.

In Falluja, known in Iraq as the city of mosques, gunfire and arena-rock anthems no longer mask the call to prayer resounding from the rebuilt minarets. Far fewer US servicemen and -women are dying than in 2005 and 2006, the years that soured the public on the war, and fewer Iraqis—if still appallingly many—are dying as well. In

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Victor "Whitebeard" Navasky

general, the presidential campaign and the Wall Street meltdown keep the Iraq story out of the headlines. The assumption in Washington, and in newsrooms as well, is that the next president, whoever he may be, will see to it that US involvement in the war does not last forever. The relative calm is deceptive, however, as long as Iraq's deepest fissures remain unhealed. Quite independent of the surge and the number of troops the president decides to withdraw, trouble lurks on several fronts: the attempt of Prime Minister Nuri al-Maliki to play strongman despite his narrow political and social base; the intensified armament of both Maliki's security forces and the former Sunni Arab guerrillas he refuses to enlist; the move by the Shiite religious parties in power to roll back the political gains and move back the gendarmes of their Kurdish allies; the disputed status of Kirkuk; and the ongoing struggles among Shiite Islamists over oil and land in the south.

If any of these matters explode, and Americans again find themselves seeking answers about why the fury in Iraq returned to their living rooms, what might they glean from these books about the only aspect of Iraq's agony over which they have some degree of control—the US role therein? Certainly, they will absorb the message—so compellingly conveyed by Filkins—that war is hell. Possibly, and worryingly, they will learn that America cannot hope to change, and so owes nothing to, this dusty land riven by antique, immutable animosities, where the troops are unappreciated and disputes are settled with a band saw to the neck. But as to whether this war was just, or its continuation justified, in light of the well-documented wreckage, what will they learn?

Here one cannot help but recall Swoford's warning that unflinching depictions of America's wars, even controversial ones, are not always regarded as antiwar. That is not because of blood lust or because many believe, in the case of Iraq, that "the surge is working." Rather, it is because another country has suffered the bulk of the war's human costs and because, with the exception of the soldiers and military families who have borne the stress and pain on America's behalf, Americans have the luxury of abstraction in asking whether the war was "worth it." Even Filkins, asked by hawkish radio host Hugh Hewitt if Iraqis are "better off" today than before the invasion, hemmed and hawed before declaring the jury out: "And so I think the best way to answer that question is say, Let's ask it again in five years, and see how it's gone." In the struggle for interpretive ground, if not on the battlefield, Iraq may indeed be the forever war. ■



Robert Smalls and the Planter

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Rooted in Reconstruction

by ERIC FONER

A few months ago, an article in *The New York Times Magazine* portrayed Barack Obama's presidential candidacy as marking the "end" of traditional black politics and the emergence of a new generation of black leaders whose careers began after the civil rights struggle, and who strive to represent not simply black voters but the wider electorate. "For a lot of younger African-Americans," wrote Matt Bai, "the resistance of the civil rights generation to Obama's candidacy signified the failure of the parents to come to terms, at the dusk of their lives, with the success of their own struggle—to embrace the idea that black politics might now be disappearing into American politics in the same way that the Irish and Italian machines long ago joined the political mainstream."

Bai's analysis assumes that until recently only one kind of politics existed among African-Americans: a politics focused solely on race and righting the wrongs of racism. Yet divisions among black politicians are nothing new. Some politicians have defined themselves primarily as representatives of a black community; others have identified with predominantly white, nonracial parties like the Populists, Socialists or Communists. Some have been nationalists who believe that racial advancement comes only through community self-determination; others have worked closely with white allies. These differences go back as far as debates among black abolitionists before the Civil War. Then, as now, black politics was as complex and multifaceted as any

Capitol Men

The Epic Story of Reconstruction Through the Lives of the First Black Congressmen.

By Philip Dray.

Houghton Mifflin. 463 pp. \$30.

other kind of politics, and one of the valuable implications of the new book *Capitol Men* (although its author, Philip Dray, does not quite put it this way) is that Obama's candidacy represents not so much a repudiation of the black political tradition as an affirmation of one of its long-established, vigorous strands.

Of the thousands of men and women who have served in the Senate or as governors since the ratification of the Constitution, only nine have been African-American. Three of the nine hold office today: Senator Obama and Governors David Paterson of New York and Deval Patrick of Massachusetts. Well over a century ago, during the turbulent era of Reconstruction, they were preceded by another three: Hiram Revels and Blanche Bruce, both senators from Mississippi, and P.B.S. Pinchback, briefly the governor of Louisiana. The gulf between this trio and Obama, Paterson and Patrick is a striking reminder of the almost insurmountable barriers that have kept African-Americans from the highest offices in the land. It also underscores how remarkable, if temporary, a transformation in American life was wrought by Reconstruction. Revels, Bruce and Pinchback were only the tip of a large iceberg—an estimated 2,000 black men served in some kind of elective office during that era. The emergence of these men in the aftermath of the Civil War was living proof of an idea expressed after an earlier period of turmoil and bloodshed: "all that

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extent of capacity” of ordinary people, invisible in normal times, wrote Tom Paine in *The Rights of Man*, “never fails to appear in revolutions.”

For many decades, historians viewed Reconstruction as the lowest point in the American experience, a time of corruption and misgovernment presided over by unscrupulous carpetbaggers from the North, ignorant former slaves and traitorous scalawags (white Southerners who supported the new governments in the South). Mythologies about black officeholders formed a central pillar of this outlook. Their alleged incompetence and venality illustrated the larger “crime” of Reconstruction—placing power in the hands of a race incapable of participating in American democracy. D.W. Griffith’s 1915 film *Birth of a Nation* included a scene in which South Carolina’s black legislators downed alcohol and propped their bare feet on their desks while enacting laws. Claude Bowers, in *The Tragic Era*, a best-seller of the 1920s that did much to form popular consciousness about Reconstruction, offered a similar portrait. To Griffith and Bowers, the incapacity of black officials justified the violence of the Ku Klux Klan and the eventual disenfranchisement of Southern black voters.

Historians have long since demolished this racist portrait of the era. Today Reconstruction is viewed as a noble if flawed experiment, a forerunner of the modern struggle for racial justice. If the era was tragic, it was not because Reconstruction was attempted but because the effort to construct an interracial democracy on the ruins of slavery failed. *Capitol Men* begins by calling Reconstruction a “powerful story of idealism,” one Dray tells by describing the careers of the sixteen black men (including Hiram Revels and Blanche Bruce) who served in Congress between 1870 and 1877.

Popular histories like Dray’s, aimed at

an audience outside the academy, have tended to infuse their subjects with drama by focusing on violent confrontations rather than the operation and accomplishments (public school systems, pioneering civil rights legislation, efforts to rebuild the shattered Southern economy) of the biracial governments established in the South after the Civil War. One thinks of recent works like Nicholas Lemann’s *Redemption*, a compelling account of Reconstruction’s violent overthrow in Mississippi; Stephen Budiansky’s *The Bloody Shirt*, a survey of violence during the entire period; and LeeAnna Keith’s *The Colfax Massacre*, about the single bloodiest incident in an era steeped in terrorism by the Klan and kindred white supremacist groups.

Dray’s previous books—well-regarded studies of lynching (*At the Hands of Persons Unknown*) and of the murder of three civil rights workers in Mississippi in 1964 (*We Are Not Afraid*)—fit within this familiar pattern. But in his latest work, Dray moves beyond violence, a vital but limited way of understanding the era’s political history. Perhaps because it concentrates on the careers of a few individuals, *Capitol Men* is episodic and somewhat unfocused. It does not really offer an assessment of Reconstruction’s successes and failings. Still, Dray is an engaging writer with an eye for the dramatic incident and an ability to draw out its broader significance and relevance to our own times.

One such episode involves Robert Smalls, who in 1874 was elected to Congress from Beaufort County, South Carolina. Twelve years earlier, Smalls had piloted the Planter, on which he worked as a slave crewman, out of Charleston harbor and delivered it to the Union navy, a deed that made him a national hero. In 1864, while the ship was undergoing repairs in Philadelphia, a

conductor evicted Smalls from a streetcar when he refused to give up his seat to a white passenger. Ninety years before a similar incident involving Rosa Parks sparked the Montgomery bus boycott, Smalls’s ordeal inspired a movement of black and white reformers to persuade the Pennsylvania legislature to ban discrimination in public transportation.

Equally riveting is the 1874 confrontation between Alexander Stephens, the former vice president of the Confederacy, then representing Georgia in the House of Representatives, and another black South Carolinian, Congressman Robert Elliott. The subject of their exchange was a civil rights bill banning racial discrimination in places of public accommodation. Stephens offered a long argument based on states’ rights as to why the bill was unconstitutional. Elliott launched into a learned and impassioned address explaining why the recently enacted Fourteenth Amendment justified the measure (which was signed into law by President Grant the following year), then reminded Congress of an infamous speech Stephens had delivered on the eve of the Civil War: “It is scarcely twelve years since that gentleman shocked the civilized world by announcing the birth of a government which rested on human slavery as its cornerstone.” Elliott already had proved that he refused to be intimidated by whites: in 1869 he whipped a white man in the streets of Columbia for writing inappropriate notes to his wife. A black man assaulting a white man in defense of his wife’s good name was not a common occurrence in nineteenth-century South Carolina.

Many of the black Congressmen spoke of the abuse they suffered while traveling to the Capitol. Joseph Rainey was removed from a hotel dining room; Robert Elliott was refused service at a restaurant in a railroad station. Even when they reached Washington, hazards remained and insults swirled about them. A number of black Congressmen faced death threats and defended themselves by posting armed guards at their homes. In the House, one Virginia Democrat announced that he was addressing only “the white men,” the “gentlemen,” not his black colleagues. Another spoke of slavery as a civilizing institution that had brought black “barbarians” into modern civilization. Black Congressman Richard Cain of South Carolina responded that his colleague’s definition of “civilizing instruments” seemed to encompass nothing more than “the lash and the whipping post.”

This Town Is Going Out of Business

[This town is going out of business that I call my brain] [the public space of my head got suburbed] [the heaven-heaped core of capital-] [ized stars is empty now as sleep is full] [of new words for new feelings like infrastructure-] [nostalgia or love-outside-the-citadel] [the past tense is tragedy while the present tense is comedy] [as all the empires and epochs have ended] [but for this one and then only out here] [in the late districts of the imagination] [in the old light of our pretty periphery]

JOSHUA CLOVER

The Congressmen Dray profiles came from diverse origins and differed in their approach to public policies. Some had been free before the Civil War, others enslaved. Some favored government action to distribute land to former slaves; others insisted that in a market society the only way to acquire land was to purchase it. Some ran for office as representatives of their race, others as exemplars of the ideal that, with the end of slavery and the advent of legal equality, race no longer mattered. Reconstruction's black Congressmen did not see themselves simply as spokesmen for the black community. Blanche Bruce was one of the more conservative black leaders; yet in the Senate he spoke out for more humane treatment of Native Americans and opposed legislation banning immigration from China.

Like Obama, many of the sixteen black members of Congress discussed by Dray had enjoyed opportunities and advantages unknown to most African-Americans. Revels had been born free in North Carolina and later studied at a Quaker seminary in Indiana and at Knox College in Illinois. Bruce was the slave son of his owner and was educated by the same tutor who taught his white half-siblings. He escaped at the outset of the Civil War, organized a black school in Missouri and was a Mississippi newspaper editor and local officeholder before his election to the Senate. Some Congressmen had enjoyed unique privileges as slaves. Benjamin Turner's owner allowed him to learn to read and write and to run a hotel and livery stable in Selma. Others, however, had experienced slavery in all its brutality. Jeremiah Haralson of Alabama and John Hyman of North Carolina had been sold on the auction block.

None of these men fit the old stereotype of Reconstruction officials as ignorant, incompetent and corrupt. All were literate, most were seasoned political organizers by the time of their election and nearly all were honest. One who does fit the image of venality was Governor Pinchback of Louisiana, whose career combined staunch advocacy of civil rights with a sharp eye for opportunities to line his pockets. Pinchback grew up and attended school in Cincinnati. In the 1850s he worked as a cabin boy on an Ohio River steamboat. He fell in with a group of riverboat gamblers and learned their trade. He turned up in New Orleans in 1862 and expertly navigated the byzantine world of Louisiana's Reconstruction politics. Pinchback was undoubtedly corrupt (he accumulated a small fortune while in office) but also an accomplished politician.

Reconstruction ended in 1877, when President Rutherford B. Hayes abandoned the idea of federal intervention to protect the rights of black citizens in the South, essentially leaving their fate in the hands of local whites. But as Dray notes, black political power, while substantially diminished, did not vanish until around 1900, when the Southern states disenfranchised black voters. Six more African-Americans served in Congress before the end of the nineteenth century. Some of their Reconstruction predecessors remained active in politics. Robert Smalls, of Planter fame, served as customs collector at Beaufort until 1913, when he was removed as part of a purge of blacks from the federal bureaucracy by Woodrow Wilson, the first Southern-born president since Reconstruction.

Pinchback and Bruce moved to Washington, where they became leaders of the city's black elite and arbiters of federal patronage appointments for African-Americans. Bruce worked tirelessly but unsuccessfully to persuade Congress to reimburse blacks who had deposited money in the Freedman's Savings Bank, which failed during the Panic of 1873. Like Fannie Mae and Freddie Mac in our own time, the bank was a private corporation chartered by Congress that enjoyed the implicit but not statutory backing of the federal government. Its counterparts today are being bailed out with billions of taxpayer dollars, as they have been deemed too big to fail. The Freedman's Savings Bank was too black to rescue.

The last black Congressman of the post-Reconstruction era was George White of North Carolina, whose term ended in 1901. From then until 1929, when Oscar DePriest took his seat representing Chicago, Congress remained lily-white. Not until 1972, with Andrew Young's election in Georgia and Barbara Jordan's in Texas, did black representation resume from states that had experienced Reconstruction. Today the Congressional Black Caucus numbers forty-two members, seventeen of them from the states of the old Confederacy. But the pioneering black predecessors have been all but forgotten. I know of only two examples of public recognition in their home states—a school named for Robert Smalls in Beaufort and a Georgetown, South Carolina, park named for Joseph Rainey. Reconstruction's Capitol men deserve to be remembered, not least because without the political revolution they embodied, it would be impossible for a black man today to be a candidate for president. ■

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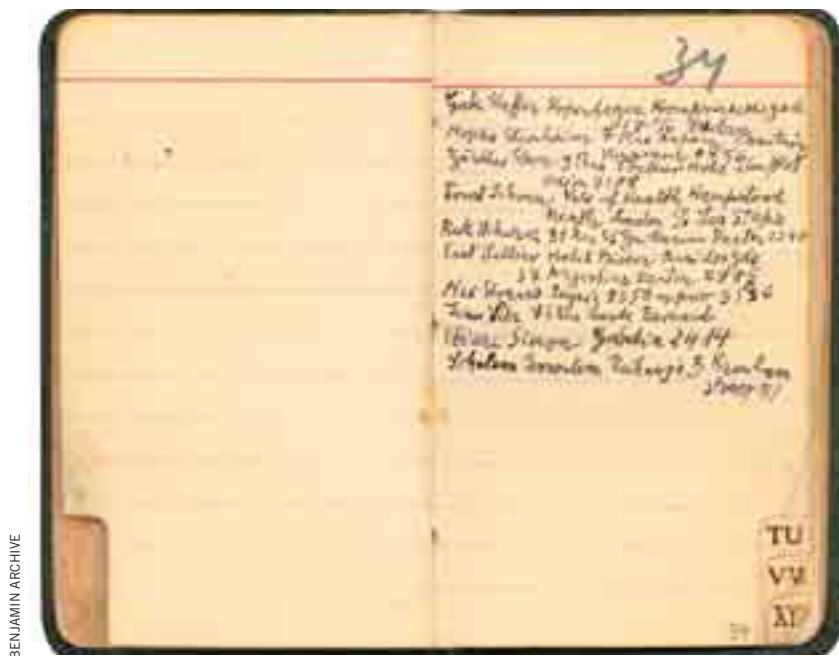
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A page from Walter Benjamin's Paris address book, 1930s

Walter Benjamin Forever

by NOAH ISENBERG

Among the many writers and intellectuals whose posthumous fame far outshines that of when they were alive—Kafka, say, or Emily Dickinson or even Machiavelli—Walter Benjamin is the object of a particular kind of obsession. In Germany, even his address book from his years of exile has been deemed worthy of publication in a facsimile edition. And in the English-speaking world, within the past decade Harvard University Press has released the complete four-volume edition of Benjamin's *Selected Writings*; his massive, essentially unfinished and previously unpublished magnum opus, *The Arcades Project*; and a series of separately issued mass-market paperback editions of his posthumously published memoir (*Berlin Childhood Around 1900*), his ruminations on the hashish experiments he conducted in the late 1920s and early '30s (*On Hashish*) and his various writings on Charles Baudelaire (*The Writer of Modern Life*). All of these books are today in wide circulation and enjoy the kind of visibility and sales otherwise common to trade publications. Such notoriety would have been unfathomable in Benjamin's lifetime, especially during his final years, when what little prominence he attained in

The Work of Art in the Age of Its Technological Reproducibility, and Other Writings on Media

By Walter Benjamin.

Edited by Michael W. Jennings, Brigid Doherty and Thomas Y. Levin.

Belknap Press/Harvard. 426 pp. \$18.95.

Walter Benjamin

By Esther Leslie.

Reaktion. 256 pp. \$16.95.

Walter Benjamin's Archive

By Walter Benjamin.

Translated by Esther Leslie.

Verso. 311 pp. \$27.95.

the second half of the Weimar Republic was on the wane. In a way, every posthumous edition of Benjamin's work, be it a collection of writings (finished or unfinished) or a facsimile edition of personal ephemera, is an address book, a volume that his admirers can consult in their quest for reliable coordinates about a writer who led a restless intellectual and personal life that came to a mysterious end.

The most recent addition to this ever expanding Benjamin list is *The Work of Art in the Age of Its Technological Reproducibility*, a collection of some forty-five pieces—most of them unpublished while he was alive, many of them little more than fragments—on art, film, photography and other media. The volume takes its name from the much heralded

title essay of the collection, a highly demanding exercise in cultural criticism that offers at once a sustained analysis of aesthetics, politics and society in the age of late capitalism and a subtle elaboration of the ever changing modes of sensory experience. The essay was composed during a particularly difficult period of Benjamin's Parisian exile, in the autumn of 1935, and was later subjected to a series of stringent revisions: in a detailed letter sent from London, Theodor Adorno expressed his reservations concerning a putative strain of romanticism in the piece and a regrettable lack of dialectical rigor. It finally appeared, in abbreviated form and in French translation, in 1936 in Max Horkheimer's *Zeitschrift für Sozialforschung*. The version selected for the new Harvard edition includes seven manuscript pages that were lopped off in the first published edition; it is what Benjamin considered the *Urtext*, or "master version," and best represents what he had hoped to see in print.

Despite its theoretical complexity and elusive terminology, not to mention the clunkiness of the English title, the so-called "Work of Art" essay has become one of Benjamin's best-known pieces of writing, a staple of media studies courses and artist statements. (When it first appeared in English in the collection *Illuminations*, published in 1968, its title was the more fluid, if less literal, "The Work of Art in the Age of Mechanical Reproduction.") In addition to the "Work of Art" essay, the Harvard edition includes an assortment of pieces, transplanted from Benjamin's *Selected Writings*, that might together form a kind of media archaeology: his reflections on painting, children's books, folk art, photography, radio, the telephone and the allure of cinema, from Eisenstein's *Battleship Potemkin* to Chaplin's *The Circus*. Long before Marshall McLuhan, Benjamin sought to make sense of the impact of technology on artistic and political expression. Given Benjamin's penchant for decoding "the unapparent and the everyday," it's clear enough what drew him to his subjects of analysis, even if the relatively agnostic position he took often cut against the grain of the more damning critique of the culture industry advanced by his Frankfurt School colleagues. "All Mickey Mouse films are founded on the motif of leaving home in order to learn what fear is," he wrote in an unpublished fragment of 1931. A shrewd observer of pop culture, who showed by turns sympathy and suspicion, Benjamin could see in Mickey Mouse what others would be more apt to attribute to Homer or the Bible.

The editors and publisher of this volume deserve credit for organizing its contents thematically rather than chronologically. Such a

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format encourages readers to approach Benjamin's work discursively, thereby fostering a superior sense of the recurrent ideas, themes, motifs and concepts that Benjamin employed time and again. One odd yet also somehow fitting feature in this protracted moment of cultural adulation is the book's cover illustration—a caricature of the brilliant, seemingly crazed German thinker, his body formed by the spokes of a printing press, crafted by Ralph Steadman, the British cartoonist otherwise associated with the “gonzo” journalist Hunter S. Thompson. Of course, apart from their respective experiments with hallucinogenic drugs, Thompson and Benjamin have little in common. But they do share a cultish devotion among their readers, who are drawn not only to the writers' ideas but also to their quirky, ostensibly revolutionary life paths, each of which is shrouded in its own fog of conjecture and mystery.

Esther Leslie's biography of Benjamin comes at a good time, when the mythologizing of a cultural critic is in need of some sober re-evaluation. Making full use of newly available archival sources and Benjamin's voluminous correspondence, Leslie insists that her study “holds rigorously to the facts of a life much fictionalized.” While she revisits much of the ground combed over in the two previous full-scale biographies available in English—Bernd Witte's *Walter Benjamin: An Intellectual Biography* (1991) and Momme Brodersen's *Walter Benjamin: A Biography* (1996)—she does so with more personal insight and also by devoting greater attention to the drama of Benjamin's private life than solely to the rhythms of his literary, philosophical and scholarly output. Writing for neither specialists nor acolytes, she tactfully avoids the excesses of revisionism and hagiography. She also manages in large part to sidestep the ideological turf wars that defined the early disputes over Benjamin's status as a thinker and critic, with Gershom Scholem making his case for Benjamin as a Zionist who never quite realized his dream of Zion—in fact, he flirted with the idea of migrating to Palestine throughout the late 1920s—and Adorno playing up Benjamin's allegiance to the Institute for Social Research, and with both of them separately rejecting Benjamin's ties to Brecht.

Leslie begins with an account of the assimilated, upwardly mobile German-Jewish milieu into which Benjamin was born in 1892, the bourgeois “ghetto” that was for him Berlin's West End at the *fin de siècle*. Benjamin commenced his formal education in 1902 at the Kaiser Friedrich Gymnasium, a thoroughly rigid Prussian institution whose “narrow-chested, high-shouldered impres-

sion” he never forgot. As a teenager he was sent to a progressive boarding school in the countryside where, under the aegis of Gustav Wyneken, a charismatic educational reformer, he became active in the youth movement. (Leslie's book includes a reproduction of a striking postcard titled “Our Swimming Pond” of nude swimming at the school.) Benjamin published his first works of prose and poetry under the pseudonym Ardor in the Wyneken-inspired journal *Der Anfang* (The Beginning); around the same time he debated the merits of cultural Zionism and immersed himself in the writings of Kant, Kierkegaard and Schiller. Benjamin would ultimately sever his ties to Wyneken, who in 1914 came out as a war enthusiast. For his part, Benjamin did all that he could—feign palsy or, under hypnosis, induce sciatica—to avoid military service in a war he found morally indefensible.

In 1912 Benjamin began his university studies in Freiburg, where he encountered some of Wilhelmine Germany's most distinguished faculty. He attended history lectures by Friedrich Meinecke and took courses in philosophy with Heinrich Rickert. Generally bored by academia, however, he likened his experience with the professoriate to “a mooing cow to which students were compelled to listen”; in his later essay “The Life of Students,” he asserted, “scholarship, far from leading inexorably to a profession, may in fact preclude it.” Benjamin would maintain a deep skepticism toward academia throughout his life. Though he managed to earn his doctorate (*The Concept of Art Criticism in German Romanticism*), *summa cum laude*, in 1919, he complained to Scholem that he had to “hack through” his courses, and the two friends, both based in Switzerland at the time, joked incessantly about establishing their own parody institution, the University of Muri. In the mid-1920s Benjamin confided to Scholem that the theoretical introduction to his postdoctoral thesis, on the origin of German tragic drama (his halfhearted attempt to launch an academic career), was an act of “unmitigated chutzpah.” Benjamin never warmed up to the idea of being attached to a single institution, academic or otherwise, and scholarly specialization was generally anathema to an intellect as omnivorous as his.

The remainder of Benjamin's life was an intellectual odyssey, and Leslie does a fine job of charting it, from the competing currents of thought running from Marxism to Messianism, the pressures of Brecht, Adorno and Scholem, and the perennial difficulties of eking out a living as a freelancer. Leslie is equally adept at examining Benjamin's many loves (the youth activist Grete Radt; the already married Dora Pollack, née Kellner,

Events

NEW YORK

‘Worse Than They Want You to Think’

■ Talk: “Worse Than They Want You to Think: A Marxist Analysis of the Economic Crisis.” Tuesday, October 21, 7 PM. Andrew Kliman will argue that the crisis is serious and acute, and that income redistribution, infrastructure investment, financial regulation and legal protections against foreclosures are not alternatives to the Wall Street bailout. The only alternative is a new, human, socioeconomic system. Donations appreciated. At TRS Inc. Professional Suite, 44 East Thirty-Second Street, eleventh floor (between Park and Madison Avenues). Sponsor: The New SPACE (New School for Pluralistic Anti-Capitalist Education), (800) 377-6183, new-space@mutualaid.org, <http://new-space.mahost.org>.

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■ Say no to US militarization of Latin America and the Caribbean. On Sunday, November 9, the Granny Peace Brigade presents its third in a series of teach-ins focusing on the vast network of US overseas military bases. The Navy has re-established its Fourth Fleet (inactive since 1950) to patrol Latin American and Caribbean waters. The teach-in will address the implications of this outdated and provocative policy. Confirmed speakers: Maria Fernanda Espinosa, Ecuador's ambassador to the UN; Dr. Greg Grandin, NYU history professor and author of *Empire's Workshop: Latin America, the U.S. and the Rise of New Imperialism*; and retired Army Col. Ann Wright, former diplomat and author of *Dissent: Voices of Conscience*. The moderator is Dr. Basil Wilson, political scientist, former provost of John Jay College of CUNY and featured columnist with the New York-based weekly *Carib News*. Church of the Ascension, 221 West 107th Street, east of Broadway. 2–5 PM; doors open at 1:30 for refreshments. Free. Wheelchair accessible, English/Spanish simultaneous translation and book signings. Information: www.grannypeacebrigade.org, (212) 865-7875, grannypeace@gmail.com.

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Southern Human Rights Organizers' Conference

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whom he would go on to marry, have a child with and later divorce; the Latvian Bolshevik Asja Lacis; and the Dutch painter Anna Maria Blaupot ten Cate) and at showing his enormous range of creative interests and ambitions—he once expressed his firm hope to ennoble his profession, to “create criticism as a genre” unto itself—and his far less impressive ability to support himself and his family. Leslie lays bare the vast extent of Benjamin’s agonizing dependence on the largesse of his parents, his in-laws, friends and colleagues.

In the second half of Leslie’s book, the story of Benjamin’s life takes something of a plunge. After his messy divorce from Dora, Benjamin sells off his prized collection of children’s books. He bounces around, living as a frequent houseguest of friends and taking on assignments, in addition to his more high-minded pursuits, merely for a commission. His health begins to decline, he fears that his ideas are being filched by his friends Ernst Bloch and Siegfried Kracauer, and he frets that his chances of fleeing occupied France, whether to Palestine or to the United States, are becoming increasingly slim. “With no way out,” he would ultimately go on to explain in his last communiqué, “I have no other choice but to end it. It is in a little village in the Pyrenees where no one knows me that my life reaches its conclusion.”

Leslie’s biography concludes with a provocative discussion of Benjamin’s afterlife—the ways he has been remembered since his tragic death in late September 1940. Benjamin, who had secured a US visa through the aid of his friend Max Horkheimer, died in the border town of

Port Bou after the group of refugees with whom he had crossed the Pyrenees was denied entry into Spain. In addition to several highly inventive conspiracy theories—that Stalinist agents might have been responsible for Benjamin’s death, as one critic has it; or, as David Mauas’s 2005 documentary *Who Killed Walter Benjamin?* suggests, perhaps it was a group of local Falangists—there have been countless works of homage, from novels and plays to paintings and films, and other, more monumental forms of memorialization. Israeli sculptor Dani Karavan’s *Passagen*, erected just outside the Port Bou cemetery in 1994, stands as arguably the most poignant testament to Benjamin. Built of steel and glass, the enclosed structure stretches from the jagged cliffs to the surf below. This passageway has a vertiginous effect on the viewer, who is led down a long flight of stairs to a sheet of glass etched with words taken from among Benjamin’s last lines: “It is more arduous to honor the memory of the nameless than that of the renowned. Historical construction is devoted to the memory of the nameless.”

Benjamin is no longer nameless. In fact, not unlike other precious reliquaries, his writings have in recent years become the celebrated subject of public art exhibitions in their own right. This past summer, from May through the end of August, the Museum of Modern Literature in Marbach, Germany, organized a show around the original manuscript of Benjamin’s *Berlin Childhood Around 1900*, and in the autumn of 2006 the Berlin Academy of the Arts hosted a large-scale exhibition of the Benjamin archive—culled from some 12,000 pages of text it has in its holdings. The exhibition catalog was published that same year, and thanks to Leslie’s work as translator, the book is now available in English as *Walter Benjamin’s Archive*. In certain respects, the volume is a fitting tribute to a thinker who was very much an archivist himself: a man who preserved his correspondence, kept copies of manuscripts (his own and those written by friends), diaries, notebooks, drafts, drawings, outlines and other miscellany, and who offered unremitting reflections, theoretical and personal, on the significance of collecting. The book’s thirteen chapters—more “convolutes,” in the spirit of his *Arcades Project*, than discrete, entirely independent sections—encompass sketches and marginalia, poems and bons mots, postcards and snapshots, and many, many brown-tinted facsimiles of Benjamin’s compressed, diminutive, almost illegible handwriting; Benjamin once told Scholem of his wish to fit “a hundred lines onto an ordinary sheet of notepaper.” In another respect, *Walter Benjamin’s Archive*

is the most recent incarnation of the trend among Benjaminians of publishing facsimile editions that treat their idol’s original manuscripts as repositories of some talismanic quality. Yet in his “Work of Art” essay, Benjamin himself states rather unambiguously, “There is no facsimile of the aura.”

Among the more revealing items reproduced in *Walter Benjamin’s Archive* is a scrap of paper—probably a restaurant bill—with the S. Pellegrino mineral water trademark stamped on it. Below the Pellegrino bottle icon, Benjamin wrote, “What is Aura?” In the right-hand corner he has scribbled a note, the beginning of a poem, perhaps, or maybe just a few stray thoughts that came to him in an intoxicated state: “Eyes staring at one’s back/Meeting of glances/Glance up, answering a glance.” This may not be the key to unlocking the secrets of Benjamin’s concept of aura (in the body of the text, jotted on the Pellegrino paper, he avers, equally cryptically: “Aura is the appearance of a distance however close it might be”), but it does offer insight into the *Verschachtelung*, or interlocking nature, of his thought, as if all his ideas emerged from a pile of scrap paper.

As a graduate student in the early 1990s, I remember seeing what I took to be unmoored philosophy students from the late 1960s and ’70s still toiling away on their dissertations at Berkeley’s Café Mediterranean on Telegraph Avenue, with bundles of dog-eared file cards bound with thick rubber bands and stacks of yellowed paperbacks lined up on their tables. Had Benjamin ever made his way to Lisbon and on to New York City—and maybe to the West Coast, where his friends Brecht, Adorno and Horkheimer had all taken up residence by the early 1940s—perhaps he would have become one of these café dwellers. In a letter of April 1934 to his friend the critic and theologian Karl Thieme, Benjamin wrote with a sense of despair regarding the chances of ever having his work published or reaching an audience of any size.

For someone whose writings are as dispersed as mine, and for whom the conditions of the day no longer allow the illusion that they will be gathered together again one day, it is a genuine acknowledgement to hear of a reader here and there, who has been able to make himself at home in my scraps of writings, in one way or another.

During his final years, when forced to write under a pseudonym, one of the names Benjamin chose was O.E. Tal, an inversion of the Latin *lateo*, “I am hidden.” Some seven decades and countless editions later, he is hidden no more. ■

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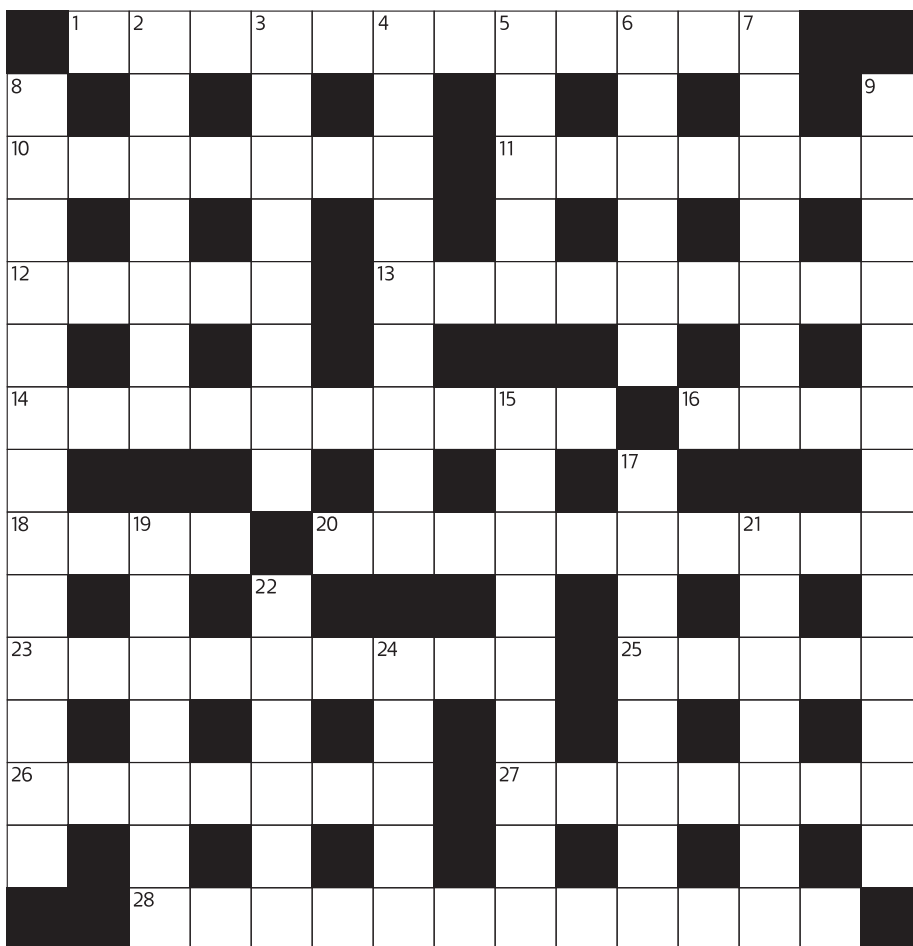
FRANK W. LEWIS

ACROSS

- 1 Divvying a very quiet beginning, otherwise turning into this with a gin sling. (12)
- 10 The main description would be nothing to write about, with a couple of points to end everything. (4,3)
- 11 Oriental makes a point, with a harsh word. (7)
- 12 Cuddly thing with a possibly strange appetite is a knock-out according to the description. (5)
- 13 In San Francisco or Salt Lake City, what you may do on a shingle. (5-4)
- 14 On which you might write down your thoughts, I see by the sound of it—which is rather noble! (10)
- 16 See 3 down
- 18 Keep on talking and talking about what is a plaything for an angel. (4)
- 20 Hangs around with, and forms part of the group of partners. (10)
- 23 It has a middling association with Longfellow, having lots of money to throw around like crazy! (9)
- 25 One who overindulges, sort of like Perot. (5)
- 26 It's French law to introduce a sibling briefly when you have infestation with the parasitic eyeworm. (7)
- 27 Breed of cattle taken as part of the Communist questioning. (3-4)
- 28 One might hear it said on the first day. (5,3,4)

DOWN

- 2 Color in the top of your head, putting the time ahead. (7)
- 3 and 16 across When you run in it, you might have to jump things. (8,4)
- 4 Members of a certain order, where a well-known musical family takes their chairs, when slightly disturbed. (9)
- 5 In Sappho, per antiquarians, one can find an elaborate musical drama. (5)
- 6 Came out, but gets called into court. (6)
- 7 One of the Windward islands, not quite great, and absolutely nothing to the Spanish. (7)
- 8 Proceed diligently, as testators sometimes have to do. (4,4,1,4)
- 9 Not in the required fashion. (13)
- 15 A brave nomenclature for what the tot might consider a choo-choo. (4,5)
- 17 The first word of 28 precedes this on certain occasions, with the following given to you. (8)
- 19 Somewhat scarlet, but beetles might represent such on the table. (7)
- 21 Possibly a topic a cook might dish out. (7)
- 22 Admits being the way down supper, in part. (4,2)
- 24 Overoxidized, but if you are, you'll have to bone up! (5)



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